

MONTANA LEGISLATIVE HISTORY

Chapter 119 19 93

Bill H _____ S 140

Original bill & history ☒ C

H. Committee on Judiciary

Hearing Date(s) Mar 02 ☒ C

Mar 03 ☒ C

_____ ☐ C

_____ ☐ C

Date Out Mar 03 ☒ C

S. Committee on Judiciary

Hearing Date(s) Jan 20 ☒ C

Jan 29 ☒ C

_____ ☐ C

_____ ☐ C

Jan 28 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

1/26	REFERRED TO LOCAL GOVERNMENT		
3/11	HEARING		
3/12	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/17	2ND READING CONCURRED	76	19
3/19	3RD READING CONCURRED	78	21
	RETURNED TO SENATE WITH AMENDMENTS		
3/24	2ND READING AMENDMENTS CONCURRED	50	0
3/25	3RD READING AMENDMENTS CONCURRED	49	0
3/31	SIGNED BY PRESIDENT		
4/02	SIGNED BY SPEAKER		
4/05	TRANSMITTED TO GOVERNOR		
4/06	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 271		
	EFFECTIVE DATE: 10/01/93		

SB 140 INTRODUCED BY REA, ET AL.
 DEFINE LEGAL RESPONSIBILITY IN EQUINE ACTIVITIES

1/13	INTRODUCED		
1/13	REFERRED TO JUDICIARY		
1/13	FIRST READING		
1/20	HEARING		
1/29	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/02	2ND READING PASSED	47	0
2/03	3RD READING PASSED	47	0
	TRANSMITTED TO HOUSE		
2/04	REFERRED TO JUDICIARY		
2/04	FIRST READING		
3/02	HEARING		
3/04	COMMITTEE REPORT—BILL CONCURRED		
3/06	2ND READING CONCURRED	91	8
3/09	3RD READING CONCURRED	93	5
	RETURNED TO SENATE		
3/13	SIGNED BY PRESIDENT		
3/15	SIGNED BY SPEAKER		
3/16	TRANSMITTED TO GOVERNOR		
3/18	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 119		
	EFFECTIVE DATE: 03/18/93		

SB 141 INTRODUCED BY ECK
 CLARIFY TAX EXEMPTION OF FEDERALLY OWNED PROPERTY
 BY REQUEST OF DEPARTMENT OF REVENUE

1/13	INTRODUCED		
1/13	FISCAL NOTE REQUESTED		
1/13	FISCAL NOTE RECEIVED		
1/13	REFERRED TO TAXATION		
1/13	FIRST READING		
1/15	FISCAL NOTE PRINTED		
1/19	HEARING		
1/20	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/21	2ND READING PASSED	48	0
1/22	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		
1/23	FIRST READING		
1/23	REFERRED TO TAXATION		
2/02	HEARING		
2/04	COMMITTEE REPORT—BILL CONCURRED		

1 *Bill Title* *Senate* BILL NO. 140 *Jewellson*
 2 INTRODUCED BY *Swanson* *HARP* *Peterson* *Hollowtail*
 3 *Swanson* *Kelly* *Sayles* *Bouch* *Fisher*
 4 *B. Brown* *Reed* *Griffith* *Mason* *Clark*
 5 A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING TORT LIABILITY
 6 FOR EQUINE ACTIVITY SPONSORS AND EQUINE PROFESSIONALS;
 7 REPEALING SECTION 27-1-733, MCA; AND PROVIDING AN IMMEDIATE
 8 EFFECTIVE DATE AND AN APPLICABILITY DATE."
 9

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 NEW SECTION. **Section 1.** Purpose. The purpose of
 11 [sections 1 through 4] is to assist courts and juries in
 12 defining the circumstances under which persons responsible
 13 for equines may be found liable for damages to persons
 14 harmed in the course of equine activities. It is the policy
 15 of the state of Montana that a person is not liable for
 16 damages sustained by another solely as a result of risks
 17 inherent in equine activities if those risks are or should
 18 be reasonably obvious, expected, or necessary to persons
 19 engaged in equine activities. It is the policy of the state
 20 of Montana that persons who are responsible for equines or
 21 for the safety of persons engaged in equine activities and
 22 who are negligent are responsible as provided in [sections 1
 23 through 4] for injuries to those engaged in equine
 24 activities.

25 NEW SECTION. **Section 2.** Definitions. As used in

1 [sections 1 through 4], the following definitions apply:

2 (1) "Engage in an equine activity" means to ride,
 3 train, drive, or be a passenger upon an equine, whether
 4 mounted or unmounted. The phrase does not mean activity by a
 5 spectator at an equine activity, unless the spectator is in
 6 an unauthorized area in immediate proximity to an equine
 7 activity, or by a person who participates in the equine
 8 activity but does not ride, train, drive, or ride as a
 9 passenger upon an equine.

10 (2) "Equine" means a horse, pony, mule, donkey, or
 11 hinny.

12 (3) "Equine activity" means:

13 (a) equine shows, fairs, competitions, performances, or
 14 parades that involve any breed of equines and any of the
 15 equine disciplines, including but not limited to dressage,
 16 hunter and jumper horse shows, grand prix jumping, 3-day
 17 events, combined training, rodeos, driving, pulling,
 18 cutting, polo, steeplechasing, endurance trail riding and
 19 western games, and hunting;

20 (b) equine training or teaching activities;

21 (c) boarding equines;

22 (d) riding, inspecting, grooming, or evaluating an
 23 equine belonging to another, whether or not the owner has
 24 received monetary consideration or another thing of value
 25 for the use of the equine or permits a prospective purchaser

1 of the equine to ride, inspect, groom, or evaluate the
2 equine; and

3 (e) rides, trips, hunts, pack trips, or other equine
4 activities of any type, however informal, that are sponsored
5 by an equine activity sponsor.

6 (4) "Equine activity sponsor" means an individual,
7 group, club, partnership, or corporation, whether operating
8 for profit or nonprofit, that sponsors, organizes, or
9 provides the facilities for an equine activity. The phrase
10 includes but is not limited to pony clubs; 4-H clubs; hunt
11 clubs; riding clubs; school- and college-sponsored classes
12 and programs; therapeutic riding programs; operators,
13 instructors, and promoters of equine facilities; stables;
14 clubhouses; pony ride strings; fairs; farms; ranches; and
15 arenas.

16 (5) "Equine professional" means a person engaged for
17 compensation in:

18 (a) instructing a participant or renting to a
19 participant an equine for the purpose of riding, driving, or
20 being a passenger upon the equine;

21 (b) selling or renting equipment or tack to a
22 participant; or

23 (c) providing veterinary or farrier services.

24 (6) "Participant" means a person, whether amateur or
25 professional, who directly engages in an equine activity,

1 whether or not a fee is paid to participate in the equine
2 activity.

3 (7) "Risks inherent in equine activities" means dangers
4 or conditions that are an integral part of equine
5 activities, including but not limited to:

6 (a) the propensity of an equine to behave in ways that
7 may result in injury or harm to or the death of persons on
8 or around the equine;

9 (b) the unpredictability of an equine's reaction to
10 such things as sounds; sudden movement; and unfamiliar
11 objects, persons, or other animals;

12 (c) hazards, such as surface and subsurface ground
13 conditions;

14 (d) collisions with other equines or objects; or

15 (e) the potential of a participant to act in a
16 negligent manner that may contribute to injury to the
17 participant or others, such as to not maintain control over
18 the equine or to not act within the person's ability.

19 **NEW SECTION. Section 3. Equine activity liability**
20 **limitations.** (1) Except as provided in subsections (2) and
21 (3), an equine activity sponsor or an equine professional is
22 not liable for an injury to or the death of a participant
23 engaged in an equine activity.

24 (2) Subsection (1) does not apply to the horseracing
25 and mule racing industry as regulated in Title 23, chapter

1 4.

2 (3) Subsection (1) does not apply:

3 (a) if the equine activity sponsor or the equine
4 professional:

5 (i) provided the equipment or tack and the equipment or
6 tack caused the injury because the equine activity sponsor
7 or equine professional failed to reasonably and prudently
8 inspect and maintain the equipment;

9 (ii) provided the equine and failed to make reasonable
10 and prudent efforts to determine the ability of the
11 participant to safely engage in the equine activity and to
12 safely manage the particular equine based on the
13 participant's representations as to the participant's
14 ability;

15 (iii) owned, leased, rented, or otherwise was in lawful
16 possession and control of the land or facilities upon which
17 the participant sustained injuries caused by a dangerous
18 latent condition that was known or should have been known to
19 the equine activity sponsor or the equine professional;

20 (iv) committed an act or omission that constituted
21 willful or wanton disregard for the safety of the
22 participant and the act or omission caused the injury; or

23 (v) intentionally injured the participant; or

24 (b) in a products liability action.

25 NEW SECTION. Section 4. Veterinarian and farrier

1 liability limitations. (1) Except as provided in subsection
2 (2), a veterinarian or farrier is not liable for an injury
3 to or the death of a person who assists the veterinarian or
4 farrier in rendering veterinarian or farrier services,
5 whether or not the services are for compensation, to an
6 equine owned by that person.

7 (2) Subsection (1) does not apply:

8 (a) if the veterinarian or farrier:

9 (i) committed an act or omission that constituted
10 willful or wanton disregard for the safety of the person and
11 the act or omission caused the injury; or

12 (ii) intentionally injured the person; or

13 (b) in a products liability action.

14 NEW SECTION. Section 5. Repealer. Section 27-1-733,
15 MCA, is repealed.

16 NEW SECTION. Section 6. Two-thirds vote requirement.
17 Because [sections 3 and 4] limit governmental liability,
18 Article II, section 18, of the Montana constitution requires
19 a vote of two-thirds of the members of each house of the
20 legislature for passage.

21 NEW SECTION. Section 7. Applicability. [Sections 1
22 through 4] apply to injuries and deaths that occur on or
23 after [the effective date of this act].

24 NEW SECTION. Section 8. Effective date. [This act] is
25 effective on passage and approval.

- BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE - REREFERRED - DATE READ

SB0078	GAGE, DEL 1/08	1/19	CITY ATTY. MAY REPRESENT STATE IN CERTAIN DUI LICENSE SUSPENSION HEARINGS PASS AS AMENDED 1-25	1/25
SB0093	BECK, TOM 1/07	1/21	ELIMINATE HANGING AS FORM OF CAPITAL PUNISHMENT DO PASS 1-28	1/27
SB0108	GAGE, DEL 1/08	1/22	GENERAL, MINOR REVISIONS OF CRIMINAL JUSTICE INFORMATION LAWS DO PASS 1-28	1/27
SB0109	DOHERTY, STEVE 1/08	1/22	EXPAND CRIMINAL CODE DEFINITION OF "SERIOUS BODILY INJURY" PASS AS AMENDED 1-28	1/28
SB0117	HALLIGAN, MIKE 1/09	1/13	FAMILY LAW MEDIATION PROCESS PASS AS AMENDED 1-25	1/26
SB0119	HALLIGAN, MIKE 1/11	2/01	GENERALLY REVISE PROBATE AND ESTATE LAWS PASS AS AMENDED 2-16	2/17
SB0124	VAN VALKENBURG, FRED 1/11	1/20	REVISE FINDERS OF PROPERTY LAW DO PASS 1-28	1/27
SB0125	VAN VALKENBURG, FRED 1/11	1/22	GENERALLY REVISE CRIMINAL PROCEDURE PASS AS AMENDED 1-28	1/28
SB0129	DOHERTY, STEVE 1/12	1/19	ELIMINATE REQUIREMENT TO IDENTIFY DRIVER IN SCHOOL BUS VIOLATION DO PASS 1-25	1/25
SB0140	REA, JACK 1/13	1/20	DEFINING LEGAL RESPONSIBILITY IN EQUINE ACTIVITIES PASS AS AMENDED 1-27	1/29
SB0146	WATERMAN, MIGNON 1/14	1/21	LIMITED LIABILITY COMPANY ACT PASS AS AMENDED 1-25	1/25
SB0150	BARTLETT, SUE 1/14	1/26	CONFORM CHILD SUPPORT ENFORCEMENT LAWS TO FEDERAL LAW PASS AS AMENDED 1-29	1/29

MINUTES

**MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By Sen. Bill Yellowtail, on January 20, 1993, at
10:00 a.m.

ROLL CALL

Members Present:

Sen. Bill Yellowtail, Chair (D)
Sen. Steve Doherty, Vice Chair (D)
Sen. Sue Bartlett (D)
Sen. Bob Brown (R)
Sen. Bruce Crippen (R)
Sen. Eve Franklin (D)
Sen. Lorents Grosfield (R)
Sen. Mike Halligan (D)
Sen. John Harp (R)
Sen. David Rye (R)
Sen. Tom Towe (D)

Members Excused: Sen. Blaylock

Members Absent: NONE

Staff Present: Valencia Lane, Legislative Council
Rebecca Court, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 124
SB 140
Executive Action: NONE

HEARING ON SB 124

Opening Statement by Sponsor:

Senator Van Valkenburg, District 30, said that SB 124 simplifies the procedure of how lost property can be disposed. SB 124 deletes the provision on how the public is notified about a sale. SB 124 provides protection for holding a public sale without having to go through the process of advertising.

Proponents' Testimony:

Adriene Kieh-Cronn, Bicycle Coordinator for the City of Missoula,

told the Committee that storing lost or stolen bicycles is labor intensive and trying to locate an owner is costly. Ms. Kieh-Cronn supports Senator Van Valkenburg in removing the law from SB 124.

Opponents' Testimony:

NONE

Questions From Committee Members and Responses:

NONE

Closing by Sponsor:

Senator Van Valkenburg closed.

HEARING ON SB 140

Opening Statement by Sponsor:

Senator Rea, District 38, said that SB 140 is an act defining the legal responsibility of participants in equine activities. SB 140 addresses the inherent risk associated with handling a horse and certain circumstances under which a person responsible for equines may be found liable for persons harmed in the course of an equine activity. SB 140 simply defines the risk and responsibilities of both parties involved in equine activities.

Proponents' Testimony:

Pat Melby, Montana Horse Council, said that horseback riding and other equine activities attract people from all over the world to Montana to participate because it is an enjoyable activity, but it is not without risk to participants. The owners fear being liable for injuries involved in equine activities even if the injury was not caused by negligence. This has resulted in decreased accessibility to liability insurance and higher insurance premiums. The purpose of SB 140 is similar to the skiers and snowmobilers responsibilities act in that it defines the responsibilities of equine activity sponsors and participants. The sponsor could still be liable for negligence, but participants would be responsible for injuries that are caused by risks that are inherent in that activity. Mr. Melby explained the amendments. (Exhibit #1)

Representative Tim Sales, District 61, told the Committee that horses have been part of Montana heritage for a long time and passing SB 140 would keep horses a part of that heritage.

Representative Stovall, District 98, told the Committee about the expense in getting insurance for the Centennial Cattle Drive. Representative Stovall said that it is imperative to pass SB 140 so equine activity will not be restricted. (Exhibit #2)

Representative John Rose, District 11, told the Committee that horses are a prime tourist attraction in Montana. Representative Rose supports SB 140.

Senator Mesaros, District 21, read from prepared testimony. (Exhibit #3)

Representative Swanson, District 79, supports SB 140.

Les Graham, Montana Horse Council, supports SB 140.

Candace Torgerson, Montana Stock Growers, Montana Wool Growers Association read from prepared testimony. (Exhibit #4)

Jamie Doggett, Montana Cattlemen, supports SB 140. Ms. Doggett told the Committee that the money earned by the Great Centennial Cattle Drive goes toward scholarships. With the passage of SB 140, the cattle drive would be easier and more successful.

Cort Just told the Committee that because of the liability of the owners it is impossible to let people help at a ranch. Mr. Just supports SB 140.

Ron Skinner, Bitterroot Team Runners, told the Committee that with the passage of SB 140 Montana could promote the event of Team Running.

Brad Griffiths, Montana Horse Council, read from a letter supporting SB 140. (Exhibit #5)

Erin Ferrie told the Committee that horses are a big part of childrens lives. Ms. Ferrie supports SB 140.

Robert L. Schaap, Lone Mountain Ranch, read from prepared testimony. (Exhibit #6) Submitted letters from insurance companies. (Exhibit #7, Exhibit #8)

Kate Ferrie told the Committee that horses are therapeutic to people who are emotionally disturbed and because of the high liability insurance those people are not able to work with horses. Ms. Ferrie stands in support of SB 140.

Sierra Johnson, Last Chance Stampede, supports SB 140.

Jim Jones, Last Chance Stampede, told the committee that equine activities bring in an excess of one billion dollars a year. Mr. Jones said SB 140 needs to pass for the economy in Montana.

Sarah Bowles, Montana State 4-H Ambassador, read from prepared testimony. (Exhibit #9)

Joanna Schnur submitted a letter in support of SB 140. (Exhibit

#10)

John Lumberg, Montana Farm Bureau, support SB 140.

John Vandenacre, Big Sky Horse Leasing, read from prepared testimony. (Exhibit #11)

Steve Eastman, Montana Professional Horseshoers Association Incorporated, read from prepared testimony. (Exhibit #12)

Orwell Walker, Montana Back Country Horsemen, support SB 140.

Douglas Hammill read from prepared testimony. (Exhibit #13)

Gail Brockbank, Montana Promotion Division of the Department of Commerce, told the Committee that SB 140 has an important role in the promotion of Montana as a vacation destination.

Larry Homquist, Eagle Mount, read from prepared testimony. (Exhibit #14)

Jackie Holmgren, Montana Cutting Horse Association, supports SB 140 because it would keep costs down and generate revenue to the state of Montana.

Kelly Flynn, Montana High Country Cattle Drives, read from prepared testimony. (Exhibit #15)

Russ Ritter, Washington Corporation, urges support in SB 140.

Shelley Mackay, Fallon County 4-H Horse Project Leader, urges support in SB 140.

Jean Johnson, Montana Outfitters and Guides Association, told the Committee that horses are essential in the outfitting industry. Ms. Johnson urges support in SB 140.

Donna Johnson, Great Falls All Breeds Horse Show Committee, read from prepared testimony. (Exhibit #16)

Jesse Armitage, Flying D Ranch, told the Committee about the Flying D Ranch. Mr. Armitage said that there is no way to protect oneself from liability resulting from an injury caused by equine activities. Mr. Armitage supports SB 140.

Bill Patten, Montana Medical Veterinarian Association, endorses SB 140 with amendments to Section 2 talking about limited liability. Mr. Patten feels medication should be added in Section 2.

Gaylynn Wagner, Hylander Walker Ranch, Montana Horse Council, read from prepared testimony. (Exhibit #17)

Al Lien read from prepared testimony. (Exhibit #18)

Mike Wagner, Horse Breeder, submitted a letter from an insurance agency regarding similar legislation in Colorado. (Exhibit #19)

Sandra Jankowski read from prepared testimony. (Exhibit #20)

Doug Averill, Flathead Lake Lodge, Lost Trail Ranch, is in strong support of SB 140 which clarifies the assumption of risk of the participants. This type of legislation in other states has proved to have many benefits and has provided stability in the equine industry. Equine legislation in Montana will open up new insurance markets, reduce rates, eliminate nuisance suits, and enable Montana to compete with other states in equine activities. Mr. Averill encourages support of SB 140.

Ellen Hargrave, read from prepared testimony. (Exhibit #21)

Opponents' Testimony:

Representative Howard Toole, District 60, said that current law already maintains the principal interest of SB 140. Under the present law litigation over personal injuries are based upon negligence. Also, plaintiffs that are injured must prove a violation of a duty of reasonable care that the defendant failed to meet. Rep. Toole said that there is no proof that insurance rates will decrease with the passage of SB 140. SB 140 does not allow for a person to recover for damages from injuries sustained when there is negligence on the part of the equine sponsor.

Russell Hill read from prepared testimony. (Exhibit #22)

Questions From Committee Members and Responses:

Senator Towe asked Pat Melby about the amendment that describes veterinarian and farrier services as activities. Mr. Melby replied that veterinarians and farriers are equine activity sponsors and professionals. Clients sometimes assist veterinarians and farriers with duties that sometimes involve an element of danger of becoming injured.

Senator Towe asked Mr. Melby about who the amendment would protect. Mr. Melby said the amendment to include farriers and veterinarians is intended to define the responsibility of the individual who is participating in helping those persons. Mr. Melby feels the section regarding vets and farriers went too far and should be included under the same guidelines as other professional providers of equine activities.

Senator Towe asked Mr. Melby about the protection of employees. Mr. Melby said that the owners as well as the employees are protected.

Senator Towe asked Mr. Melby about page 4, line 15 through line 18. Mr. Melby said the intent is to protect the equine

professional or sponsor from injury caused by the negligence by another participant.

Senator Towe questioned Mr. Melby about restating contributory negligence. Mr. Melby said that regarding recreational activities, regardless of the common law principals of negligence, people offering equine activities are held liable even when they are not negligent.

Senator Towe told Mr. Melby that by calling contributory negligence a risk, it could be counterproductive for the people SB 140 is trying to protect. Mr. Melby told Senator Towe he would propose an amendment to clear up the language.

Sen. Towe asked Mr. Melby about lines 12 and 13 on page 4. Mr. Melby said that by participating in equine activities, a person would have to expect known hazards on the ground. If a horse has been matched properly to the ability of the rider and the rider has been advised of hazards, then the sponsor who is providing the horse should be not be liable for how the horse reacts.

Senator Crippen asked Mr. Hill about the liability of a sponsor if negligent. Mr. Hill said that Section 3 says that once an outfitter qualifies as an equine activity sponsor, they would not be liable for an injury or death to a participant engaged in equine activities.

Senator Crippen asked Mr. Hill about the owner's liability pertaining to food poisoning. Mr. Hill replied that common law would penalize food poisoning as negligence.

Senator Doherty asked Mr. Melby about recovery from an accident that occurs in an area that an owner has allowed for public use, but the owner is not present at the time of the accident. Mr. Melby said there would be recovery because the situation would not be controlled by a provision in SB 140. Allowing people to enter into an area creates an attractive nuisance, which is an inherent risk. There is no protection in SB 140 from negligence, only if the activity involves inherent risk. An individual who creates an attractive nuisance is negligent.

Senator Doherty asked Mr. Melby about paid activities involving equine activities. Mr. Melby said that an equine professional has to make a reasonable and prudent effort to determine the ability to match a horse with a participant. If the sponsor or professional does not determine the ability of the participant, the sponsor could be held liable for injuries.

Senator Doherty asked Mr. Melby whether a sponsor or professional could be held liable to a third party. Mr. Melby said that without a contract between two parties, he did not know if the sponsor would be held liable.

Senator Doherty asked Roger McGlenn, Executive Director of the

Independent Insurance Agents Association of Montana, about liability insurance. Mr. McGlenn told the Committee there is no guarantees that insurance rates would go down if SB 140 passes. (Exhibit #23)

Senator Doherty asked Mr. Hargrave about whether the standard of care of outfitting companies would drop if SB 140 passes. Leo Hargrave told the Committee with this type of legislation in other states it has increased the awareness of liability. (Exhibit #24)

Senator Towe asked Mr. Hill about inherent risk. Mr. Hill replied that risks may be both inherent and avoidable. Falling off a horse is an inherent risk, but it is eminently avoidable. Mr. Hill suggested substituting the words "avoidable" or "unforeseeable."

Senator Towe asked Mr. Melby about the standard of care with the passing of SB 140. Mr. Melby told the Committee that states with this type of legislation feel it has made sponsors of equine activities more aware of risk management. The legislation makes participants aware of risks and how to manage them. Mr. Melby said that owners will have a high safety standard because of the value of the horses.

Senator Towe asked Mr. Melby about the person who is injured because of negligence. Mr. Melby replied that if there is negligence on behalf of the sponsor of an equine activity, it is different than something that was caused by an inherent risk. SB 140 protects the sponsor from a risk that cannot be controlled.

Senator Towe asked Mr. Melby about page 5. Mr. Melby said that SB 140 would not exonerate a sponsor from liability if negligent, but only from the inherent risks.

Senator Towe asked Mr. Melby if a sponsor could use inherent risk as a defense. Mr. Melby said that a sponsor could use inherent risk as a defense. A plaintiff's lawyer could argue the exception that even though it was an inherent risk the sponsor was negligent in how the person was matched with the horse, and therefore be held liable for negligence.

Closing by Sponsor:

Senator Rea said that the purpose section of SB 140 defines inherent risk. Senator Rea also stated the concerns of sponsors of equine activities are real and address the availability of equine activities and our economy.

ROLL CALL

SENATE COMMITTEE

Judiciary

DATE 1-20-93

NAME	PRESENT	ABSENT	EXCUSED
Senator Yellowtail	X		
Senator Doherty	X		
Senator Brown	X		
Senator Crippen	X		
Senator Grosfield	X		
Senator Halligan	X		
Senator Harp	X		~~X~~
Senator Towe	X		
Senator Bartlett	X		
Senator Franklin	X		
Senator Blaylock			X
Senator Rye	X		

FC8

Attach to each day's minutes

Amendments to Senate Bill No. 140
First Reading Copy (white)

For the Montana Horse Council

January 19, 1993

1. Title, lines 4 and 5

Following: " AN ACT "

Strike: remainder of line 4 through "FOR" on line 5

Insert: DEFINING THE LEGAL RESPONSIBILITY OF PARTICIPANTS
IN EQUINE ACTIVITIES,

2. Title, line 6

Strike: "REPEALING SECTION 27 - 1 - 733, MCA;"

3. Page 1, lines 11 and 23.

Page 2, line 1.

Page 6, line 22.

Strike: "4"

Insert: "3"

4. Page 2, line 4.

Following: "unmounted"

Insert: "or to otherwise participate in an equine activity

5. Page 2, lines 7 through 9.

Following: "activity"

Strike: remainder of line 7 through "equine" on line 9

6. Page 3, line 2.

Strike: "and"

7. Page 3, line 5.

Strike: "."

Insert: "; and"

8. Page 3, line 6

Following: line 5

Insert: "(f) providing veterinary or farrier services."

9. Page 3, line 7

Strike: "or"

Following: "corporation,"

Insert: "or other entity,"

10. Page 3, line 11

Following: "riding clubs;"

Strike: "schools - and college-sponsored"

Insert: "riding"

MONTANA LEGISLATURE

1

1-20-93

SB140

11. Page 3, line 14.
Strike "fairs"

12. Page 4, lines 21 through 23
Following: "(3), on line 21
Strike: remainder of line 21 through "activity" on line 23
Insert: "a participant must accept all legal responsibility
for injury or damage of any kind to the extent that the
injury or damage results from risks inherent in
equine activities."

Page 4, line 24
Following: line 23
Insert: "An equine participant shall act in a safe and
responsible manner at all times to avoid injury to the
participant and others and to be aware of the inherent
risks of the sport."
Re-number: subsequent subsections

13. Page 5, line 25 through page 6, line 20.
Strike: sections 4, 5, and 6 in their entirety
Re-number: subsequent sections

14. Page 6, line 22
Strike: "4"
Insert: "3"
Re-number section

CAL WINSLOW

4608 BOX CANYON SPRGS.
BILLINGS, MT 59101

(406)259-2652 HOME
(406)657-4670 WORK
(406)245-5854 FAX

Senator Bill Yellowtail
Chairman, Judiciary Committee
Capital Station
Helena, Montana
59620

Dear Senator Yellowtail,

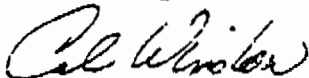
I would very much like to be with you today to appear in person to testify in favor of SB 140 entitled the Horseman's Safety Act. In a state like Montana where there are so many activities both recreational and professionally where horses are used I believe this bill needs consideration and passage.

I had first hand experience with this problem while serving as a volunteer attempting to organize the Great Montana Centennial Cattle Drive. I believe that in most people's minds the Cattle Drive was the greatest celebration of the centennial year. However, the "Drive" almost didn't take place because of the unavailability of liability insurance and the cost of such insurance when found. The "Drive" was a total volunteer activity with the purpose to celebrate our centennial and raise money for scholarships for rural youth. The reality of the cost of liability insurance made the decision to complete the event a difficult decision for those of us on the Latino Board of Directors. Eventually, we bit the bullet and obligated ourselves to insurance that cost \$40,000 which obviously came off the bottom line of funds raised for scholarships.

In Montana where there are so many activities where people enter into activities at their own choice involving horses I believe passage of S 140 is important. I strongly seek your favorable passage of this act.

Thank you for your consideration of this matter.

Sincerely,



Cal Winslow

1
2
1-20-93
SB140

18



MONTANA STATE SENATE

January 8, 1993

Montana Horse Council

To Whom It May Concern:

I want to relay a personal experience that occurred on my ranch that may relate to pending legislation.

Several years ago when we were branding calves, I had several friends attend to watch the associated activities. After all the work was completed one of these "friends", without permission from me, placed his young daughter on one of my ranch horses. She didn't know how to ride. The result was that the girl fell off and the horse accidentally stepped on her creating serious injury to her lower leg.

After some major medical bills accumulated, the "friend" who wasn't even invited and the one who placed the girl on the horse without permission, acquired a lawyer and with a lawsuit pending, my insurance compensation settled out of court. This did not result in out-of-pocket expense for me, yet it undoubtedly increases insurance premiums.

I hope this experience will help in testimony in pending legislation.

Respectively submitted,

A handwritten signature in cursive script, which appears to read "Senator Ken Mesaros".

Senator Ken Mesaros

SENATE JUDICIAL COMMITTEE

3
1-20-93

SB 140

18

TESTIMONY
FOR SENATE BILL 140
AN ACT DEFINING THE LEGAL RESPONSIBILITY OF
PARTICIPANTS IN EQUINE ACTIVITIES

INTRODUCED BY SENATOR JACK REA

Submitted by
Montana Stockgrowers Association and
Montana Wool Growers Association
by Candace Torgerson

SENATE JUDICIARY COMMITTEE
Wednesday, January 20, 1993

Mr. Chairman, members of the Committee, for the record my name is Candace Torgerson, and I am providing testimony on behalf of the Montana Stockgrowers Association and the Montana Wool Growers Association regarding Senate Bill 140.

The Montana Stockgrowers and the Montana Wool Growers support Senate Bill 140.

Many of the members of both associations own horses and are involved in activities that use horses. Horses are used in ranch work, as well as for pleasure riding. Ranchers recognize that there is a certain amount of risk inherent in equine activities, and for the most part, so do their guests.

This bill would allow ranchers to share their horses and arenas with individuals who would like to enjoy those resources. Without the protection of this bill, ranchers are fearful of lawsuits and the legal costs related to them which could result from an accident involving their horses.

The Montana Stockgrowers Association and the Montana Wool Growers Association request a "do pass" on Senate Bill 140.

Thank you.

4
1-20-93
SB140

Hoiness LaBar Insurance, Inc.

2323 2ND AVENUE NORTH - P.O. BOX 30638

BILLINGS, MT 59107-0638

(406) 245-6511 - FAX (406) 245-9887

January 15, 1993

5
1-20-93
SB140

Senate Judiciary Committee
Legislature of The State of Montana
Helena, MT 59601

RE: Bill #LC19

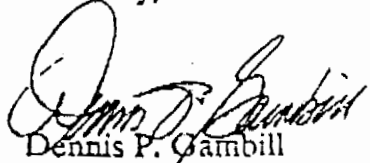
Gentlemen:

I have reviewed the draft copy of Bill #LC 19. "An Act limiting tort liability for equine activity sponsors and equine professionals."

Passage of this bill will certainly allow for broader availability of proper insurance coverage and more realistic costs for those involved in equine activities and equine professionals. Please give your support to passage of Bill #LC19.

Thank you.

Sincerely,



Dennis P. Gambill
Regional Bond Administrator/
Account Executive

DPG/df



LONE MOUNTAIN RANCH

P.O. Box 160069 • Big Sky, MT 59716
Phone (406) 995-4644 • FAX (406) 995-4670

TESTIMONY OF ROBERT L. SCHAAP, LONE MOUNTAIN RANCH-BIG SKY PERTAINING TO SENATE BILL 140 JANUARY 20, 1993

The business climate in Montana is harsh. Hostile-to-business Montana laws unreasonably increase the cost of doing business in our state, thus placing our business community at a competitive disadvantage with other states. To earn comparable profits, Montana businesses often have to charge their customers more than their competition in other states to provide the same service. Equine liability is one of several areas in which Montana businesses such as mine are at a substantial disadvantage.

Falling from a horse in Montana is like winning the national lottery! One of our guests fell from a stopped, perfectly behaved horse two years ago and broke her hip. To avoid court costs, our insurance company settled with this woman for \$27,113 even though we were, in no way, negligent! She even had personal health insurance that covered much of her costs. Suits and settlements, such as this, where no negligence is involved, add to the cost of liability insurance paid by every horse-related business. Our liability insurance last year was \$28,185 which is a very major operating expense. High insurance costs, resulting from liberal liability laws, are passed on to the customer in the form of higher prices. Higher insurance prices in Montana make it difficult to compete with similar businesses in states like Colorado with more balanced liability laws.

I urge you to help level the business playing field. Pass Senate Bill 140 and take a big step toward making Montana a better place to do business.

Thank you for your consideration.

Robert L. Schaap

4
1-20-93
SB140

THE SWALES AGENCY

INSURANCE • ALL LINES



January 18, 1993

Robert Schaap
Lone Mountain Ranch
P.O. Box 69
Big Sky, Montana 59716

Regarding: Horse Liability Law

Dear Bob:

When Colorado passed it's horse liability act, it certainly gave leeway to extra benefits for people in the horse business. It also encouraged insurance companies to peruse lower rates. One of the many benefits we have derived from the Colorado law, has been that it enables us as an agency to write our preferred ranches and horse related businesses with a standard insurance market, not only does this give each insured more comprehensive coverage, but in our case, we have a guarantee that this market will stay in this type of business for 5 years. (We are on our second term of a 5 year commitment, needless to say, by having a well structured horse liability law, it certainly would give each insured more stability with his insurance needs.) In addition, the Colorado law seems to have done away with a lot of nuisance claims.

I want to wish you the best of luck in obtaining some type of legislation that will benefit your industry.

Sincerely,

Maureen Gray
President

MG/jr

RECEIVED
JAN 20 1993
FILE NO. 58140

GILLINGHAM & ASSOCIATES, INC.

January 15, 1993

Mr. Robert Schaap
Lone Mountain Ranch
North Forkland Road
BIG SKY MT 59716

RE: EQUINE ACTIVITIES - LEGISLATIVE DECLARATION - EXEMPTION FROM
CIVIL LIABILITY

Dear Bob:

Gillingham & Associates, Inc. has recently completed a liability insurance program for outfitters, guides and dude ranches, kicking off in thirteen states February 1st. The insurance company providing coverage is the Gulf Insurance Company, Best rated A+8 and in terms of size, one of the top 25 insurance companies in the U.S.

Designing a specialty insurance program for your industry has taken nine months and hundreds of man hours. The research involved was extensive. As you have experienced, insurance companies are not standing in line to underwrite equine activities. I have interviewed several hundred outfitters, guides and dude ranch owners, and have heard the same statement as many times: "When you put a green rider on a 1200 pound animal that by its very nature is a flight animal in lieu of a fight animal, accidents can and will occur. The majority of accidents are not a result of negligence but of circumstances that may cause the animal to react in such a way to injure its rider."

Several states have passed laws limiting liability related to equine activities. The Colorado law has resulted in the reduction of insurance rates for outfitters, guides and dude ranches in Colorado and has increased the availability of coverage in Colorado. When I underwrite an identical risk in Colorado verses Montana, it goes without saying that I prefer the Colorado risk and will offer better terms, conditions and rates as a result of the new Colorado law.

As a Program Manager, underwriting equine activities on behalf of insurance company, I can factually state that a law such as Colorado 13-21-117, introduced to Montana, will reduce insurance rates and increase the number of insurance companies competing for your and your industries business.

Sincerely,


Thomas S. Gillingham

SENATE COMMITTEE
8
DATE 1-20-93
FILE NO. SB140

TSG:mcw

601 Hwy. 12
Townsend, Mt. 59644
January 20, 1993

RECEIVED
JAN 21 9 11 AM
SENATE JUDICIARY COMMITTEE
SEN. BILL 140

Senate Judiciary Committee
Helena, Mt.

Honorable Members of the Senate Judiciary Committee:

I am submitting this testimony concerning Senate Bill #140 which addresses the limitations of tort liability for equine activity sponsors. I feel that you should support this bill for the following reasons.

I am a sixteen year old 4-H ambassador. For the last ten years of my life I have been involved in numerous horsemanship activities and have coordinated the Horsemanship program in Broadwater County for the last three years. In December, I attended National 4-H Congress where I was one of forty-two teens in the nation to represent all the individuals in the 4-H Horsemanship Project. In the years that I have acted as a leader for this project, I have sponsored O-mak-sees, trail rides, training workshops, and shows for the younger members in the 4-H program. Not only have I gained valuable knowledge in taking on this task, but the 4-H members I have reached are also better people because of the nearly 100 hours we spend together learning about and enjoying our horses.

I feel that equine sponsors in Montana should be able to spread their love of horses without the threat of a law-suit from an individual taking part in the activities. Although horses are wonderful, there is a known risk when a person willingly comes in

contact with the animals. This risk should not place liability in the hands of the owner or sponsor.

Horses are a part of our Montana culture and history. Please help us to keep with tradition and vote in favor of protecting not only equine sponsors, but a part of our heritage.

Thank you for your time and consideration.

Sincerely,

Sarah Bowles

Montana State 4-H Ambassador

MONTE'S GUIDING & MOUNTAIN OUTFITTING

LaMonte J. Schnur
16 North Fork Road
Townsend, Montana 59644
406-266-3515

January 20, 1993



SENATE JUDICIARY COMMITTEE

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SB 140

Senate Judiciary Committee

Re: SB 140

Honorable Members of the Committee:

This letter is to inform you of our support for Senate Bill 140. The high cost of insurance and the fear of lawsuit are discouraging equestrian activities from occurring under the supervision or direction of responsible and knowledgeable horsemen.

Our community has an active 4-H program, a roping club, a rodeo and fair association, and a saddle club. These groups of volunteer horsemen put themselves financially at risk in engaging in wholesome and healthy activity involving horses. SB 140 would relieve them of this risk, by involving the riders in these groups' activities in the risk of injury inherent in working around livestock.

The Helena YMCA had to drop horseback riding at its camps a few years ago because the cost of insurance was prohibitive. What a shame that children attending Y camp have lost the opportunity to learn safe horsemanship in a safe environment because of the cost of insurance!

We in the outfitting industry are also taxed with extra insurance costs because of our use of horses. Industry-wide, there are few claims in comparison to the many hours of horseback ridden, but that five-letter word H-O-R-S-E automatically kicks insurance rates up, regardless of the insured's record of safety.

Senate Bill 140 will relieve Montanans of an unfair insurance burden and threat of financial ruin, while allowing safe, responsible horseback recreation.

Sincerely,

Monte
Mary Ellen Schnur
LaMonte & Mary Ellen Schnur





BIG SKY HORSE LEASING
John & Donna Vandenacre

1292 Oro Fino
Helena, MT 443-7

Mr. Chairman and Members of the committee

I am John Vandenacre, owner of Big Sky Horse Leasing here in Helena.

I lease horses to Outfitters and Guest Ranches and individuals for Pack Trips and we also conduct trail rides.

I rise in support of SB 140 simply because of it's practicality. We have been in business for 3 years and we never can be certain of what our responsibilities are. We always do our best to match horse with rider, however there are other factors we are not sure of. Whose responsibility is it to determine riders experience or sense of balance and who is responsible for town dogs or bicycle riders sneaking up behind an unsuspecting horse. I believe this bill goes a long toward defining responsibility.

The most common complaint I get from tourists is "I can't believe we are in Montana and it's so hard to find a place to ride horses."

Horses are a part of Montana's heritage and anything that can be done to promote their use, safety for both horse and rider, and careful handling by horse owners and users, should be done.

I believe this bill does that and I strongly urge your support of SB 140.

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SENATE JUDICIARY COMMITTEE
SENATE NO. 11
DATE 1-20-93
BILL NO. SB140

To Whom It may Concern

Jan 14 1992

This Letter is in Regards to S.B. 140
(The Horseman's Safety Act). I Support The
Bill, I have been a Full Time Farrier in
the Great Falls Area for 23 years. I
am President of the Montana Professional
Horseshoers Assn. Inc. and am on the
Board of Directors of the American Farriers
Assn. of which we are a Chapter Member

I have been in contact with the
membership of the M.P.H.A. and we as a
Professional Organization Support this
Bill as it has been written.

Sincerely

Steve Eastman

President M.P.H.A. Inc

Montana Professional
Horseshoers Assn. Inc.
32 Windsor Lane
Great Falls, MT 59404

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1-20-93
SB140

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OLD WEST ADVENTURES

January 20, 1993

Ladies and Gentlemen of the Montana Senate:

Horses have been my lifelong passion and the subject of my three rewarding careers in Montana - veterinarian, equine and horse farm consultant, and operator of the horse activities and old west programs at The Big Mountain Ski and Summer Resort in Whitefish. Currently, we transport around 10,000 guests a year with trail and pony rides, and horsedrawn wagons and sleighs at The Big Mountain.

I come to you today in support of senate bill 140 as a representative of many Montana horse professionals and individual horse owners. 100% of Montana horse people that I have talked with about this bill support it, want it, and need it.

Horse owners and professionals in Montana currently face risks and liability that are undefined, inequitable, and which must be shared by those who want to participate in equine activities. This suppresses the enthusiasm, growth, development and economy of our industry. It promotes a negative, fear-of-unreasonable-lawsuit atmosphere. Senate bill 140 clearly and thoroughly defines and balances each party's risks and responsibilities in a realistic and equitable way.

I can assure you that the majority of people engaging in equine activities as participants in Montana are willing to assume their reasonable share of the inherent risks and responsibility. They want freedom of choice to select from a greater array of horse activities. In addition to Montana residents, they come to us from all over the world (all 50 states and over 30 foreign countries in my business alone) and they want to experience Montana's western heritage. To most that means, among other things, horses. They return year after year, they become better riders, they want more advanced horse experiences as they progress. Many simply want to ride at the level they do with their own horses at home.

However, options are currently limited. Although horse owners and providers are very willing to accept reasonable risks and liabilities, many are unable or unwilling or uncomfortable accepting risks and liability that go so far beyond what they can influence and control. No matter how good a job we do, how careful we are, how good our horses and equipment are, we cannot avoid unrealistic claims.

It is especially tragic that many qualified horsemen and women and certified instructors are afraid to share their knowledge, skills and expertise because of the level of liability, risk and insurance rates they currently face. Horse programs which compare to hunter safety and drivers training are therefore suffering. With willing instructors such programs have the potential to improve safety records, reduce accidents and create a new generation of horse experts.

The ski industry has legislation comparable to Senate bill 140 which has reduced unrealistic claims (and the associated wasted resources, money and court time), softened insurance rates and led to expanded insurance choices and sources. Comparable horse liability legislation in Colorado and other western states has resulted in the same positive results for horse owners, providers and participants in those states.

Senate bill 140 can give all parties the same advantages in Montana. Horse people on all levels want it and need it. It is well researched, well written, fair-to-all-parties legislation. I implore you to approve Senate bill 140.

Respectfully,

Douglas Hammill D.V.M.

Douglas Hammill D.V.M.

NAME LARRY GOLDENSTEIN - Director Eagle Mount
ADDRESS 6901 GOLDENSTEIN LANE - BROZEMAN 597
HOME PHONE 586-1294 WORK PHONE 586-1781
REPRESENTING EAGLE MOUNT - HANDICAPPED RIDING
APPEARING ON WHICH PROPOSAL? S.B. 1140 PROGRAM
DO YOU: SUPPORT ✓ OPPOSE AMEND

COMMENTS:

We have a handicapped riding program
which work extensively with volunteers
and people who are disabled. The
liability risks are great but the benefits
are even greater. We need relief and
protection to make our program work.

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1-20-93

SB140

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

For Ellen Hargrave

My name is Kelly Flynn and I am here representing Montana High County Cattle Drives Inc. We are a group of ranchers and outfitters from Broadwater County who decided to pitch in together to run two cattle drives. We started inquiring in the fall prior to our June drives about acquiring insurance. Early that fall, we had an insurance quote of around \$2,200. for \$500,00 in liability insurance. Several months later we went to fill in the details and pay for the insurance and the insurance cost quote was \$7200. We thought that was a little high for our 31 clients and we did alot of investigation into alternate insurance choices. We finally were able to obtain insurance from another carrier for just over \$5200. Is that high? We feel that this insurance cost is excessive and we support this legislation which will hopefully lower these costs.

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SB140

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SB140

NAME Danna Johnson
ADDRESS 1046 Bigman Rd Belt MT 59412
HOME PHONE 738-4306 WORK PHONE 455-5770
REPRESENTING Johnson Ranch
APPEARING ON WHICH PROPOSAL? SB 140
DO YOU: SUPPORT X OPPOSE AMEND

COMMENTS:

I am a ranch owner and "honor person" this bill
is very important to me and my family. We
live in fear, hoping that our family don't
get hurt when riding on our ranch, or that
some one stopping by the road to get one of our
horses won't get kicked.
We are members of the Great Falls til Dancer
glove club that puts on a show every
year this bill is important to me. The cost
of making an owner in very high. If we
do get an accident very lucky because
most people are afraid to let people ride
on their property.

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DIAMOND N RANCH

ROCKY MOUNTAIN EQUESTRIAN CENTER

FAX 406-652-6013

BOB AND PENNI NANCE

406-656-5912 OR 406-652-7191

January 19, 1993

RECEIVED
17
1-20-93
SB140

To WHom It May Concern:

I would like to speak in favor of bill #LC19 which is "An act limiting tort liability for equine activity sponsors and equine professionals."

I represent the Diamond N Ranch and the Rocky Mountain Equestrian Center. Our facility is the designated location for the Rocky Mountain College Equestrian Program as well as a private training business. In addition we sponsor numerous clinics, special events, summer camps, as well as a lesson program.

In the years that we have been in business, we have never had a serious accident with any of our programs. The horses that are used in the various programs at the ranch are screened very carefully, but equally as important are the caliber of our instructors.

We searched for almost two years to find an affordable insurance policy that would cover the clinics, special events, summer camps and our lesson program. Rates that we were quoted for our activities ranged from \$7000.00-\$20,000.00 for a yearly premium.

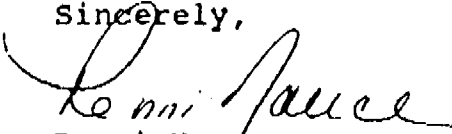
Many small equine professionals operate without adequate insurance simply because they cannot afford the premiums. This does not protect either the professional or the general public.

There are inherent risks involved in riding horses as well as working around them. LC #19 defines the fact that "there are dangers or conditions that are an integral part of equine activities and defines those conditions." Perhaps even more importantly, this bill has a provision that specifically allows the participant in an equine activity adequate recourse if the activity

sponsor or professional has been negligent and again defines those conditions. It is my feeling that LC#19 protects both the consumer and the equine professional.

Montana is truly the "Last Best Place", and horses are part of that mystique. It is my feeling that LC#19 is a tremendous benefit for the equine industry in Montana. I urge you to think positively and vote "yes" for this bill. The states of Virginia, Tennessee, Colorado, Oregon, Wisconsin are part of a group of states that have realized the need for this type of legislation. Montana could be seen as a leader by enacting this bill.

Sincerely,


Penni Nance

Senators
State of Montana

I am Al Lien, 2nd Vice President of the Montana Draft Horse and Mule Association. The Montana Draft Horse and Mule Association is a 300 member (voting) state wide association sponsoring and participating in many events such as parades, teamster events and pulling matches at Fairs throughout the state.

It is a Montana Draft Horse and Mule Association member that is handling the team and the Billings trolley at President Clinton's inaugural parade in Washington, D.C. representing the State of Montana. Insurance and liability were definitely a matter of concern to the group that put this parade entry together.

Two other events of significance sponsored by or participated in, by the Montana Draft Horse and Mule Association, were the Centennial Wagon Train terminating right outside of our capitol here and the Centennial cattle drive which assembled more horses than the Battle of Gettysburg.

I drove my carriage at the Centennial Ball as did many others without mishap assuming the responsibility that our rigs were safe and horses were in control.

In reference to language in the bill #19 a limit on liability and assistance to the court and jury in defining circumstance and or responsibility will encourage and strengthen the horses in harness industry in Montana.

Whether it be a working team feeding in the Big Hole or pleasure driving in the Christmas parade, the horse industry, whether large or small, is another segment of the state economy being harness shops, feed stores, gasoline to attend an event.

The horse industry would like to encourage the committee to support this legislation.

Sincerely yours,

Allan Lien

18
1-20-93
SB 140

28 36

GILLINGHAM & ASSOCIATES, INC.

January 15, 1993

Mr. Robert Schaap
Lone Mountain Ranch
North Forkland Road
BIG SKY MT 59716

RE: EQUINE ACTIVITIES - LEGISLATIVE DECLARATION - EXEMPTION FROM
CIVIL LIABILITY

Dear Bob:

Gillingham & Associates, Inc. has recently completed a liability insurance program for outfitters, guides and dude ranches, kicking off in thirteen states February 1st. The insurance company providing coverage is the Gulf Insurance Company, Best rated A+8 and in terms of size, one of the top 25 insurance companies in the U.S.

Designing a specialty insurance program for your industry has taken nine months and hundreds of man hours. The research involved was extensive. As you have experienced, insurance companies are not standing in line to underwrite equine activities. I have interviewed several hundred outfitters, guides and dude ranch owners, and have heard the same statement as many times: "When you put a green rider on a 1200 pound animal that by its very nature is a flight animal in lieu of a fight animal, accidents can and will occur. The majority of accidents are not a result of negligence but of circumstances that may cause the animal to react in such a way to injure its rider."

Several states have passed laws limiting liability related to equine activities. The Colorado law has resulted in the reduction of insurance rates for outfitters, guides and dude ranches in Colorado and has increased the availability of coverage in Colorado. When I underwrite an identical risk in Colorado verses Montana, it goes without saying that I prefer the Colorado risk and will offer better terms, conditions and rates as a result of the new Colorado law.

As a Program Manager, underwriting equine activities on behalf of insurance company, I can factually state that a law such as Colorado 13-21-117, introduced to Montana, will reduce insurance rates and increase the number of insurance companies competing for your and your industries business.

Sincerely,


Thomas S. Gillingham

TSG:mcw

37

Honorable Chairman and Members of the Senate Judiciary Committee:

Two of our three children are Native American and both experienced severe frustrations as adolescents in school as the result of learning disabilities, adoption issues, and coping with their minority status. After experiencing a sort of living hell with our oldest son during his high school years, someone very wise strongly recommended that we get our daughter involved with horses when she too started to show signs of trouble in her sophomore year. Now that I own a horse, I humbly realize what two strangers risked when they allowed her to use their horses for 4H lessons. No one should have to risk so much in trying to help someone else. I strongly believe that the mutual love between my daughter and the weanling filly that she raised saved her life from the years of confusion that continue to plague her older brother. Please support Senate Bill 140 so that others may benefit from a relationship with these magnificent creatures, and so that I personally may be able to pass on such an experience to some other child or adult in need without having to worry about losing everything we own. We need this law so that children may receive lessons, so that landowners can allow horse people to cross their land, and so that stables can board and lease horses to residents and tourists alike - all without fear of unfounded lawsuits.

In addition I would like to refer you to the attached writeup which appeared in the current issue of my national breed magazine. Bob Miller is an example of the best that Montana has to offer and he should be allowed to operate this wonderful enterprise without undue liability hindrances, just as the ski industry does since the passage of the ski liability bill. We simply must stop making it so difficult for businesses like this one which are so beneficial to Montana's image (and to our economy) to locate and operate successfully here.

Respectfully submitted

Sandra S. Jankowski

Sandra S. Jankowski

may
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1-20-93
SB140

42
38

When Governor Roscoe addressed the state last Thursday night he spoke of a need to approach problems with fairness and honest purpose.

You've seen that there is a problem.

The horse people of MONTANA come before you , from far and near, from all walks of life with honest purpose. asking that you address this problem.

SEN. J. J. DUNN
21
1-20-93
SB 140

You've heard testimony this morning about money, insurance, lost opportunities, perceived liability and fear, but again the Governor summed it up best last Monday morning when we briefed him on this legislation - this lack of definition of risks and responsibilities - creates a division of community.

We put out or forgo some to live in this great state - with many blessings returned . What we should not have to live under is the unnecessary fear of losing all you have worked for when you are not at fault.

You, Senators, have a rare opportunity to make a difference far past your terms - in our sense of community.

Ellen Hargrave
Hargrave Cattle & Guest Ranch
300 Thompson River Valley
36

Montana Trial Lawyers ASSOCIATION

Directors:

Wade Dahood
Director Emeritus
Monte D. Beck
Thomas J. Beers
Michael D. Cok
Michael W. Cotter
Karl J. Englund
Robert S. Fain, Jr.
Victor R. Halverson, Jr.
Gene R. Jarussi
Peter M. Meloy
John M. Morrison
Gregory S. Munro
David R. Paoli
Paul M. Warren
Michael E. Wheat

Executive Office
#1 Last Chance Gulch
Helena, Montana 59601
Tel: 443-3124

January 20, 1993

Officers:

Thomas J. Beers
President
Monte D. Beck
President-Elect
Gregory S. Munro
Vice President
Michael E. Wheat
Secretary-Treasurer
William A. Rossbach
Governor
Paul M. Warren
Governor

Sen. Bill Yellowtail, Chair
Senate Judiciary Committee
Room 325, State Capitol
Helena, MT 59624

SENATE JUDICIARY

EXHIBIT NO. 22

DATE 1-20-93

BILL NO. SB140

RE: SB 140

Mr. Chair, Members of the Committee:

Thank you for this opportunity to express MTLA's opposition to SB 140, which would limit the tort liability for equine activity sponsors and equine professionals. MTLA opposes SB 140 because of several concerns:

1. The heart of SB 140, Section 3, immunizes "equine activity sponsors" and "equine professionals" for injuries or death to participants engaged in "equine activity," period. An outfitter, for example, qualifies as an equine activity sponsor; a group of hunters qualifies as participants; and a guided pack trip into the Bob Marshall Wilderness qualifies as an equine activity. But if no exception in subsection (2) applies--if the outfitter properly provides equipment and tack, properly determines the equine ability of participants, etc.--then the outfitter enjoys blanket immunity for injuries or deaths, regardless of the cause of those injuries or death. An outfitter who accidentally poisons his clients, for example, apparently enjoys immunity under Section 3.

2. Section 4 of SB 140, pertaining to veterinarians and farriers, provides similarly excessive immunity, with even more limited exceptions. A vet, for example, who charges a young client for examining her lame horse and requests or requires her assistance, apparently enjoys absolute immunity for any resulting injuries or death, even if that vet was grossly negligent in positioning her directly behind the horse during a painful examination.

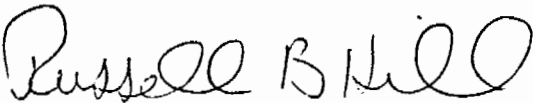
3. Section 5 of SB 140, which repeals Section 27-1-733, MCA, apparently exposes the employees of non-profit equine events to more tort liability since they do not come within the definition of "equine activity sponsor" in SB 140.

Proponents of SB 140 insist on one hand that equine activities are inherently and unavoidably dangerous and on the other hand that they deserve protection from liability when injuries or death result from their negligence. The "equine activity sponsors" and "equine professionals" insulated by SB 140 presumably understand horses better than anyone, certainly better than most of their paying clients. Yet the bill relieves them of any duty to exercise reasonable judgment in anticipating equine behavior (page 4, lines 6-8), evaluating hazards such as ground conditions and weather (page 4, lines 12-13), or correcting participants who naively underestimate the danger "in immediate proximity to an equine activity" (page 2, lines 6-7) or obviously overestimate their own equine abilities (page 5, line 9-14). The bill, in essence, blurs the fundamental distinction between inherent risks and foreseeable, avoidable risks.

Unlike liability laws applicable to Montana's relatively few, large, sophisticated ski resorts, SB 140 proposes to insulate innumerable "equine activity sponsors" who may well be one-person, part-time operations. And unlike inexperienced downhill skiers who can exercise virtually complete control over the dangers inherent in a static landscape, inexperienced horseback riders and spectators encounter animals which are large, quick, and powerful. MTLA readily admits that individuals in a free society are entitled to make decisions for themselves and to willingly, knowingly accept the risks of dangerous behavior. MTLA believes, however, that existing Montana law protects that right and the consequences that flow from that right better than SB 140 does.

Thank you for considering these comments. If I can provide additional information or assistance, please notify me.

Respectfully,

A handwritten signature in black ink, appearing to read "Russell B. Hill". The signature is fluid and cursive, with the first name "Russell" being more prominent than the last name "Hill".

Russell B. Hill
Executive Director

January 19, 1993

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 33
DATE 1-20-93
BILL NO. SB 140

TO: Roger McGlenn

FR: Vickey Anderson *TEAM ADMIN. ASSISTANT*

RE: SB 140 - Limiting Tort Liability for Equine
Activity Sponsors and Equine Professionals

Roger:

Some preliminary input on the captioned:

*Other states that have some type of law regarding limitation
on equine liability include:

Maine	Massachusetts
Virginia	Idaho
Georgia	North Dakota
Oregon	Wisconsin
Washington	Colorado
West Virginia	possibly Tennessee

*As to availability in Montana, the majority of horse liability, including horse liability for agricultural pursuits, seems to be written in surplus lines. In talking with several general agencies however, they cannot handle certain types of equine liability exposures, specifically businesses that provide riding lessons or provide animals to ride where the horse owner has to determine the ability of the rider and then match them up with a horse. There be other G.A.'s who could address the "riding" exposure that I have not have talked to.

*I did speak with two risk purchasing groups--

1) Horsemen of North America Safety Control Purchasing Group -
Schaumburg, IL - Linda Liestman - Primary Insurer: Generali US
Branch (Admitted)

Linda was very helpful and she has a great deal of information on equine liability laws in the various states (how I obtained the of states above). An individual would have to be a member to ac their purchasing group. There group incorporates alot of risk management techniques, some mandatory and some optional. Option techniques are considered for premium credits. They also provide what they call a 10% tort reform create if the insured resides i state that has an equine liability law. Linda advised that they write approximately 30-50 policies in Montana.

When I asked about if any of the various states' laws have been tested in court, she advised that, to her knowledge, there have no concluded court cases. She commented that she is currently working with an attorney from Washington who is acting as an ex witness in a pending case. He will be researching these type o cases and will have this information about mid-February.

2) American Equine Purchasing Group, Inc. - Rolling Meadows, IL
John Hart - Primary Insurer: American Modern Home Insurance
Company (Admitted)

They currently do not write any business in Montana, however,
they want to. They are in the process of trying to set up
one to two brokers in the state to handle the business as they
want local service.

*By chance I happened to talk to a member agent and he advised that
they had an admitted market for some horse liability. This shows
me that there may be various agencies out there who have special
programs set up with a certain company, which we would have no
way of knowing about unless we contacted each and every agent.

I am still awaiting some return phone calls and will let you know if
I have any additional information.

/vla

Antidotal testimony for Montana Horse Council

SENATE JUDICIARY C
EXHIBIT NO. 24
DATE 1-20-93
BILL NO. SB140

Dude Ranch: LOST VALLEY RANCH
Address: RT 2 SEDAWA, CO 80135
Phone: 303-647-2311 Fax: 303-647-2315
Owners: BOB/KAREN FOSTER

How has horse liability legislation in your state affected you? Please provide the following as testimony for a Montana Equine Liability Bill that, simply put, says the rider has to assume an inherent risk and the horse owner must be grossly negligent to be held liable.

A. Has your state legislation made securing insurance easier? yes ☒ no ☐

B. After your state passed horse liability legislation, did this open up more insurance markets for you? yes ☒ no ☐

C. Have your insurance premiums changed? Give \$ amounts if possible Our insurance rates decreased 12% directly because of the passage of Colorado's bill

D. Do you have better insurance coverage now than before the legislation? yes ☒ no ☐

E. Has the legislation changed your level of safety awareness? yes ☒ no ☐

F. Does your insurance company require signed releases? yes ☐ no ☒

G. Has your Ranch atmosphere changed as a result of having added liability protection? Not necessarily - I just sleep better @ night

H. Have any guest not returned as a result of the law? yes ☐ no ☒

I. Have you had any injury settlements over \$20,000. ? yes ☐ no ☒
how many ☐ How many years of operations? ☐

J. Have you had any nuisance threats of injury litigation? Example: (A guest wants his bill reduced due to an injury.) Approx. how many. No!!

K. What are the most positive results you have experienced from the liability law for your Ranch. What should be told to the Montana legislators. Lower insurance rates, shared risk w/ our customers when riding, increased our educational and training, an unwelcome and guests
Signature Ranch owner 1 00 2

Antidotal testimony for Montana Horse Council

Dude Ranch:

Address:

Phone:

Owners:

Skyline Guest Ranch

Box 67 Telluride, CO 81435

303-728-3257 Fax: 303-728-6728

Dave & Sherry Farny

How has horse liability legislation in your state affected you? Please provide the following as testimony for a Montana Equine Liability Bill that, simply put, says the rider has to assume an inherent risk and the horse owner must be grossly negligent to be held liable.

A. Has your state legislation made securing insurance easier? yes ☒ no ☐

B. After your state passed horse liability legislation, did this open up more insurance markets for you? yes ☒ no ☐

C. Have your insurance premiums changed? Give \$ amounts if possible lowered 10%

D. Do you have better insurance coverage now than before the legislation? yes ☒ no ☐

E. Has the legislation changed your level of safety awareness? yes ☐ no ☒

F. Does your insurance company require signed releases? yes ☐ no ☒

G. Has your Ranch atmosphere changed as a result of having added liability protection? we can have a much better riding program

H. Have any guest not returned as a result of the law? yes ☐ no ☒

I. Have you had any injury settlements over \$20,000. ? yes ☐ no ☒
how many ___ How many years of operations? ___

J. Have you had any nuisance threats of injury litigation? Example: (A guest wants his bill reduced due to an injury.) Approx. how many. ___ No

K. What are the most positive results you have experienced from the liability law for your Ranch. What should be told to the Montana legislators. The guests like the new law

Signature Ranch owner [Signature]

45
m

Antidotal testimony for Montana Horse Council

Dude Ranch: Bar Lazy J Guest Ranch
Address: P.O. Box 14, Passhall, Co. 80468
Phone: 303-725-3437 Fax: _____
Owners: Larry & Barbara Harmon

How has horse liability legislation in your state affected you? Please provide the following as testimony for a Montana Equine Liability Bill that, simply put, says the rider has to assume an inherent risk and the horse owner must be grossly negligent to be held liable.

A. Has your state legislation made securing insurance easier? yes ☒ no ☐

B. After your state passed horse liability legislation, did this open up more insurance markets for you? yes ☒ no ☐

C. Have your insurance premiums changed? Give \$ amounts if possible lower for '93

D. Do you have better insurance coverage now than before the legislation? yes ☐ no ☒

E. Has the legislation changed your level of safety awareness? yes ☒ no ☐

F. Does your insurance company require signed releases? yes ☐ no ☒

G. Has your Ranch atmosphere changed as a result of having added liability protection? NO

H. Have any guest not returned as a result of the law? yes ☐ no ☒

I. Have you had any injury settlements over \$20,000. ? yes ☐ no ☒
how many ☐ How many years of operations? 5 yrs.

J. Have you had any nuisance threats of injury litigation? Example: (A guest wants his bill reduced due to an injury.) Approx. how many. 0

K. What are the most positive results you have experienced from the liability law for your Ranch. What should be told to the Montana legislators. greater peace of mind as a Dude ranch owner!

Signature Ranch owner Larry Harmon 4/4

Antidotal testimony for Montana Horse Council

Dude Ranch:

Address:

Phone:

Owners:

The Flyingman River Ranch
32042 Flyingman Rd, Mandan ND 58164
303-827-3570 Fax: 303-827-8843
Tim Rea

How has horse liability legislation in your state affected you? Please provide the following as testimony for a Montana Equine Liability Bill that, simply put, says the rider has to assume an inherent risk and the horse owner must be grossly negligent to be held liable:

- A. Has your state legislation made securing insurance easier? yes no
- B. After your state passed horse liability legislation, did this open up more insurance markets for you? yes no
- C. Have your insurance premiums changed? Give \$ amounts if possible no
- D. Do you have better insurance coverage now than before the legislation? yes no
- E. Has the legislation changed your level of safety awareness? yes no
- F. Does your insurance company require signed releases? yes no
- G. Has your Ranch atmosphere changed as a result of having added liability protection? no
- H. Have any guest not returned as a result of the law? yes no
- I. Have you had any injury settlements over \$20,000. ? yes no
how many no How many years of operations? no
- J. Have you had any nuisance threats of injury litigation? Example: (A guest wants his bill reduced due to an injury.) Approx. how many. no
- K. What are the most positive results you have experienced from the liability law for your Ranch. What should be told to the Montana legislators. Courts accept and understand
The inherent risks of riding

Antidotal testimony

Montana Horse Council

Dude Ranch
Address

Montana Horse Council

River Ranch

Box 3410

586-4212

Fax: 303-586-5775

26 + Jane Irwin

legislation in your state affected you? Please
as testimony for a Montana Equine Liability Bill
says the rider has to assume an inherent risk and the
be grossly negligent to be held liable.

ur state legislation made securing insurance easier? yes ☒ no ☐

B. After your state passed horse liability legislation, did this open up
more insurance markets for you? yes ☒ no ☐

C. Have your insurance premiums changed? Give \$ amounts if
possible Down about 30%

D. Do you have better insurance coverage now than before the
legislation? yes ☒ no ☐

E. Has the legislation changed your level of safety awareness? yes ☐ no ☒

F. Does your insurance company require signed releases? yes ☒ no ☐

G. Has your Ranch atmosphere changed as a result of having added
liability protection? No

H. Have any guest not returned as a result of the law? yes ☐ no ☒

I. Have you had any injury settlements over \$20,000. ? yes ☐ no ☒
how many 20 How many years of operations? 20

J. Have you had any nuisance threats of injury litigation? Example: (A
guest wants his bill reduced due to an injury.) Approx. how many. 0

K. What are the most positive results you have experienced from the
liability law for your Ranch. What should be told to the Montana
legislators. We now have more markets at less
cost

Signature Ranch owner
or representative: [Signature]

DATE Jan 20 93

SENATE COMMITTEE ON SB 140 Sen Res Judiciary

BILLS BEING HEARD TODAY: SB 140 Sen Res

SB 124 - Sen VanDusen

Name	Representing	Bill No.	Check One Support Oppose	
Bonnie & Morgan	Sen Mile Drivers	SB 140	✓	
Myrna Mason	" " "	"	✓	
Tom Lanna	Back Country Horsemen Mt. Horse Shoeing	SB 140	✓	
Michael A. Wagner	~~MTA~~ Horse breeding	SB 140	✓	
Cheryl Mollenhauer	Townsend Rider School	SB 140	✓	
Danny Emerson	Team Ropers	SB 140	✓	
Rep Sam Rose	Russell County	SB 140	✓	
Jay Storch	Yellowstone	SB 140	✓	
Bill [Signature]	M V M A	SB 140	✓	
Don Youngberg	Montana Farm Bureau	SB 140	✓	
Russell R. Hill	MTLA	SB 140		X
Tim Sayles	H.D. #61	SB 140	X	
Kelly Flynn	Montana High Country Cattle Ranch	SB 140	X	
Jack Rich	Double Arrow Outfitters & Guest Ranch	SB 140	✓	
POX GEAUX	TRIPLE CREEK OUTFITTERS MONTANA, LLC	SB 140	✓	
Shelley Mackay	Fallon County 4H Horse Project	SB 140	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE January 20, 1993SENATE COMMITTEE ON SB 140 Sen Roa

BILLS BEING HEARD TODAY: _____

Name	Representing	Bill No.	Check One Support Oppose
Sierra Johnson	Last Chance Stampede	140	✓
Sparkle Wirth	MT Horse Council	140	✓
Jim Jones	Port Chana Stampede	140	✓
Alan Tuser	~~MT~~ Myself	140	✓
Sharon Zelhaus	Townsend Riders	140	✓
Debby Thorpe	Townsend Riders	140	✓
Brad Griffith	MT Horse Council	140	✓
Steve Wood	Jefferson Co. Rodeo Club	140	✓
Alan Hargrove	Cattle & Horse Ranches	140	✓
David L House	Helena Trailriders	140	✓
David K. Johnson	Mont Nat State Riders	140	✓
Ken Ken. Johnson	Ranch	140	✓
Sandra Jankowski	my self - see letter in pocket	140	✓
Schyer Ieter	Early Dawn Ranch, Tr	140	✓
Russ Ritter	Wash Corp	140	✓
Steve Pilcher	Self	140	✓

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DATE 1-20-93

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: SB 140 Sen. Rea

SB 124 Sen Van Cullenburg

Name	Representing	Bill No.	Check One	
			Support	Oppose
Ellen Linn	MONTANA TRUCK & AUTO *MILE ASSOCIATION	140	X	
Erin Jennie	Self & other kids	140	X	
Molly Ferrie	"	140	X	
Kate Ferrie	"	140	X	
Darcy Anderson	Self	140	X	
Rose Thompson	Self	140	X	
Karen Linderman	self	140	X	
Tommy Novotny	Self	140	X	
PAMELA BARROWS ~~BARROWS~~	SELF	140	X	
R. Pinist	Self	140	X	
Tina Brilz	Self	140	X	
Doug Hammill DVM	Old West Adventures + Big Mountain Ski + Summer	140	X	
Les Hargrave	Program Charles Ranch	140	X	
Edwin W. Watson	Ed W. Watson & Son	140	X	
Clay Watson	Ed W. Watson & Son	140	X	
James H. Bailey	mat Valerius Medical Assoc.	140	X	

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PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 1-20-93

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: SB 140 Sen Rea

SB 124 - Sen. Van Valkenburgh

Name	Representing	Bill No.	Check One Support Oppose
<u>MARTIN, John</u>	<u>Tran / 11 Montan</u>	<u>140</u>	☒
<u>John Vandenberg</u>	<u>Helena</u>	<u>140</u>	☒
<u>Michael S. Tapp</u>	<u>Helena</u>	<u>140</u>	☒
<u>Stephen Wirth</u>	<u>House Council</u>	<u>140</u>	☒
<u>Jim Sundersen</u>	<u>Horse Council - Farmers</u>	<u>140</u>	☒
<u>LARRY HOLMQUIST</u>	<u>BALTIMORE - BOZEMAN</u>	<u>140</u>	☒
<u>Steve Eastman</u>	<u>MT Professional Horsemen ASSN INC</u>	<u>140</u>	☒
<u>Roger Tapp</u>	<u>MT Veterinary Medicine Assn</u>	<u>140</u>	☒
<u>Carolee Torgerson</u>	<u>MT Stock Growers Assn</u>	<u>140</u>	☒
<u>Shirley Arsenault</u>	<u>MT Wool Growers Assn</u>	<u>140</u>	☒
<u>Linda Miller</u>	<u>Emigrant, MT</u>	<u>140</u>	☒
<u>ROBERT E Miller</u>	<u>Mtn Sky Guest Ranch</u>	<u>140</u>	☒
<u>Jamie Doggett</u>	<u>SIXHORN RANCH, BOZEMAN</u>	<u>140</u>	☒
<u>Phil Brockbank</u>	<u>MILLER OUTLET GR</u>	<u>140</u>	☒
<u>DUNC AVERILL</u>	<u>MT Cattlewomen</u>	<u>140</u>	☒
<u>Jesse Armitage</u>	<u>MT Promo / Dept of Comm</u>	<u>140</u>	☒
	<u>FATHERHEAD LAKE LODGE</u>	<u>140</u>	☒
	<u>Flying D Ranch</u>	<u>140</u>	☒

VISITOR REGISTER

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DATE 1-20-93

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: SB 140 - Sen Ren
SB 124 - Sen Van Valkenburg

Name	Representing	Bill No.	Check One	
			Support	Oppose
Bob Hoffman	Ag. Pres. Assoc (APA)	140	✓	
WARD JACKSON	SW. MT. STOCKMEN'S	140	✓	
Donna Johnson	Johnson Ranch	140	✓	
Leslie Colver	Colver Ranch	140	✓	
JACKIE EDWARD HELMGRÉN	WATAGAT LIVE STOCK HELMGRÉN RANCHES	140	✓	
Gaylyn Wagner	Hyland Walker Ranch Mont. Horse Council	140	✓	
Robert Schaepp	Long Mountain Ranch	140	X	
RICK GREENLEE	MONTANA BACK COUNTRY HORSEMEN	140	✓	
Orrell Walker	" " "	140	✓	
Adriene Kett - Brown	CITY OF MISSOULA	SB124	✓	
Lee Graham	MT. Backer ASSNS	SB140	✓	
Cork Mortenson	Dept. of Livestock	SB140		
SARAH A. BOWEN	4-H HORSEMANSHIP	SB140	✓	
Joanna Schmitt	Outfitters	140	X	
Mike Parsons	Outfitters	140	X	
Ted Mündeth	Quail	140	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 1-20-93

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: SB 140 Sen. Rie

SB 124 Sen. Van Valkenburgh

Name	Representing	Bill No.	Check One	
			Support	Oppose
Genny Barhaugh	self	140	✓	
Laurel L. O'Leary	self	140	✓	
Katharine Donnelley	att'y - Mont. Horse & Council	140	✓	
Larry M. Bailey	Self	140	✓	
Liz Gilliam	self	140	✓	
Robert R. Milinski	Self	140	-	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

**MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By Senator Bill Yellowtail, on January 27, 1993,
at 10:05 a.m.

ROLL CALL

Members Present:

Sen. Bill Yellowtail, Chair (D)
Sen. Steve Doherty, Vice Chair (D)
Sen. Sue Bartlett (D)
Sen. Chet Blaylock (D)
Sen. Bob Brown (R)
Sen. Bruce Crippen (R)
Sen. Eve Franklin (D)
Sen. Lorents Grosfield (R)
Sen. Mike Halligan (D)
Sen. John Harp (R)
Sen. David Rye (R)
Sen. Tom Towe (D)

Members Excused: NONE

Members Absent: NONE

Staff Present: Valencia Lane, Legislative Council
Rebecca Court, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: NONE
Executive Action: SB 236
SB 108
SB 93
SB 124
SB 70
SB 109
SB 125
SB 68
SB 140

EXECUTIVE ACTION ON SB 140

Discussion:

Valencia Lane explained the amendment proposed by Senator Doherty. (Exhibit #1)

Ms. Lane explained the amendment proposed by Senator Yellowtail. (Exhibit #2)

Ms. Lane explained the amendment proposed by Senator Towe. (Exhibit #3)

Chair Yellowtail told the Committee amendment sb014006.avl is a consensus amendment.

Motion:

Senator Towe moved to AMEND SB 140. (sb014006.avl)

Discussion:

Ms. Lane explained amendment sb014006.avl.

Senator Towe told the Committee amendment sb014004.avl is not part of the motion to amend SB 140.

Ms. Lane told the Committee sb014005.avl is not part of the motion to amend SB 140.

Senator Towe asked Valencia lane about the impact of inserting the language on page 2, line 4. (Exhibit #4) Ms. Lane said it was to define "assist or participate" with an equine activity sponsor or an equine professional.

Senator Towe asked Pat Melby if all equine sponsors engage in equine activities. Mr. Melby said the purpose of the amendment on page 2, line 4 was to clarify the language that came from legislative council. Mr. Melby said the language on page 2, line 7 through 9, was stricken because it meant that someone participating with a horse was not engaging in an equine activity. The language on page 2, line 4, came from Colorado law which defined assisting participants of equine activities, equine sponsors, and equine professionals. Mr. Melby said the language means people who volunteer to help around equine activities are participating by assisting the equine activity sponsor.

Senator Towe asked Pat Melby about the definition of a participant of equine activities. Mr. Melby said a participant is defined on page 3, line 24.

Vote:

The motion to amend (sb014006.avl) SB 140 CARRIED UNANIMOUSLY.

Motion:

Senator Yellowtail moved to AMEND SB 140. (sb014005.avl)

Discussion:

Chair Yellowtail told the Committee sb014005.avl protects veterinarians against negligence when an animal behaves in an unexpected manner because of the prescribed medicine.

Senator Towe asked Mr. Melby if he objected to amendment sb014005.avl. Mr. Melby said no.

Senator Towe asked Russell Hill, Montana Trial Lawyers Association, if he objected to amendment sb014005.avl. Mr. Hill told the Committee the insertion of medication language in SB 140 was not discussed by Montana Trial Lawyers Association, therefore he did not object or not object. Mr. Hill said the insertion is in the exception clause, so opposition would be doubtful.

Senator Towe told the Committee the amendment sb014005.avl should be added because of the reasons stated.

Vote:

The motion to amend (sb014005.avl) SB 140 CARRIED UNANIMOUSLY.

Motion:

Senator Towe moved to AMEND SB 140. (sb014004.avl)

Discussion:

Russell Hill told the Committee the Trial Lawyers Association could not come to an agreement on amendment sb014004.avl. The Trial Lawyers understanding is that the proponents of SB 140 do not intend to limit liability, but simply intend to define it. The language of the proposed amendment comes out directly of the purpose clause. Mr. Hill said the purpose clause shows the intent of the proponents. The Trial Lawyers Association would like that intent in the operative clause of SB 140 that defines inherent risk. Mr. Hill said it is important to define inherent risk. SB 140 would be imposing on participants of equine activities, a duty to be aware of inherent risks even if those risks are obvious or expected. Mr. Hill said equine sponsors or professionals know the risks that are inherent, when a client may not. Sponsors of equine activities have a duty to inform clients of risks that may not be self evident. Mr. Hill said leaving the language in the purpose clause, not in the operative section of SB 140, could lead to misinterpretation which might limit liability.

Pat Melby told the Committee that the purpose clause, on line 14, came out of the Oregon Law. Mr. Melby said the proposed language waters down SB 140, whether it is in the purpose clause or the operative section. Mr. Melby told the Committee the language should be amended out of SB 140 because an attorney could argue that any risk could be avoided with precautions. Mr. Melby said he objects to amendment sb014004.avl.

Senator Franklin asked Ellen Hargrave if she objected to amendment sb014004.avl. Ms. Hargrave asked the Committee to honor the intent of SB 140. Ms. Hargrave told the Committee SB 140 is a lawsuit avoidance law, and the intent should be kept as clear as possible.

Senator Halligan asked Pat Melby about the definition of inherent risk. Mr. Melby told the committee if the definition of inherent risk was added to SB 140, the definition would be modified so it would not mean the same thing as the dictionary. Mr. Melby told the Committee attorneys would argue that a risk could be reasonably expected, like a knowing about a gopher holes in the middle of a field. Mr. Melby said if inherent risk was defined as reasonably obvious, expected, or necessary, it would imply that the injuries could of been prevented.

Senator Halligan asked Mr. Hill to comment on the previous question. Mr. Hill said inherent would be interpreted to mean the same thing as integral, which would mean a risk or quality would be there and could have been avoided. Mr. Hill said the proponents should be concerned with the integral interpretation. Senator Halligan told the Committee for the record that integral is what you want it to mean, which can restrict liabilities or expand liabilities.

Senator Towe told the Committee that when integral is used it makes sense when we say "that in defense of the equine to behave in ways that are unpredictable," and the next sentence says "the unpredictability of the equines reaction." If we insert the language proposed by the Montana Trial Lawyers Associations, "or shall be reasonably obvious," it would be inconsistent with unpredictable which was used in the first two examples. Senator Towe said SB 140 is trying to predict is the unpredictably of the equine animal.

Russell Hill agreed with Senator Towe. Mr. Hill said his understanding is the first exception does not include unpredictability.

Senator Towe said it does by implication. Mr. Hill said it does so in terms of propensity.

Mr. Hill said the reason subsection 7 was inserted in SB 140 was to cover subsections, A through E. Mr. Hill said if it is appropriate to insert that kind of unpredictability into each subsection than the Trial Lawyers are satisfied. Mr. Hill said it is clear that some of the subsections do not include the element of foreseeability or predictability, and that is their main concern.

Mr. Melby said he did not believe the Montana Trial Lawyers Association really should want amendment sb014004.avl inserted in SB 140. Mr. Melby said the amendment broadens SB 140 to provide more protection to the sponsors and professionals.

Senator Towe withdrew his motion to amend SB 140. (sb014004.avl)
Senator Towe feels the amendment is not good language.

Motion/Vote:

Senator Rye moved SB 140 DO PASS. The motion CARRIED
UNANIMOUSLY.

EXECUTIVE ACTION ON SB 68

Discussion:

Valencia Lane explained the amendments. (Exhibit #5)

Senator Towe told the Committee he would not support the amendments.

Senator Crippen told the Committee that the amendment does not make it permanent.

Valencia Lane told the Committee the amendments make necessary changes to session laws that have been passed in former sessions. The amendments extend the termination date for two more years.

Senator Crippen said the question is whether the Committee wants to eliminate the sunset entirely, or put it on for another two years.

Senator Blaylock said the reason SB 68 is before the legislature is to eliminate the sunset law.

Chair Yellowtail said the present sunset limits the law.

Senator Blaylock said that was correct. Senator Blaylock further stated if that had been the intent, we would have put it in for another two years.

Senator Towe said that is what SB 68 with the amendment does.

Senator Blaylock told the Committee he is not in favor of the amendment. Senator Blaylock said if in two years the amounts need to be changed, it could be done. Senator Blaylock told the committee he would resist the amendments.

Senator Towe said he agrees with Senator Blaylock for reasons stated. Senator Towe said action should not be taken, without Senator Doherty who wants to advocate for the amendment.

Chair Yellowtail told the Committee there would be no action on SB 68 without Senator Doherty being present who is the sponsor of the bill.

Senator Grosfield reminded the Committee about the amendment

ROLL CALL

SENATE COMMITTEE

Judiciary

DATE 1-27-93

NAME	PRESENT	ABSENT	EXCUSED
Senator Yellowtail	X		
Senator Doherty	X		~~X~~
Senator Brown	X		
Senator Crippen	X		
Senator Grosfield	X		
Senator Halligan	X		
Senator Harp	X		
Senator Towe	X		
Senator Bartlett	X		
Senator Franklin	X		
Senator Blaylock	X		
Senator Rye	X		

F08

Attach to each day's minutes

63

SENATE STANDING COMMITTEE REPORT

Page 1 of 3
January 28, 1993

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration Senate Bill No. 140 (first reading copy -- white), respectfully report that Senate Bill No. 140 be amended as follows and as so amended do pass.

Signed: Wm Yellowtail
Senator William "Bill" Yellowtail, Chair

That such amendments read:

1. Title, lines 4 and 5.

Following: "AN ACT"

Strike: remainder of line 4 through "FOR" on line 5

Insert: "DEFINING THE LEGAL RESPONSIBILITY OF PARTICIPANTS IN
EQUINE ACTIVITIES,"

Following: "SPONSORS"

Insert: ", "

2. Title, line 6.

Strike: "REPEALING SECTION 27-1-733, MCA;"

3. Page 1, line 11.

Page 2, line 1.

Page 6, line 22.

Strike: "4"

Insert: "3"

4. Page 1, lines 20 through 24.

Following: "that" on line 20

Strike: remainder of line 20 through "activities" on line 24

Insert: "an equine activity sponsor or equine professional who is
negligent and causes foreseeable injury to a participant
bears responsibility for that injury in accordance with
other applicable law"

5. Page 2, line 4.

Following: "unmounted"

Insert: "or to assist a participant, equine activity sponsor, or
equine professional"

6. Page 2, line 5.

Following: "is"

Insert: "improperly"

7. Page 2, lines 7 through 9.

Following: "activity" on line 7

Strike: remainder of line 7 through "equine" on line 9

8. Page 3, line 2.

Strike: "and"

9. Page 3, line 5.

Strike: "."

Insert: "; and

(f) providing veterinarian or farrier services."

10. Page 3, line 7.

Strike: "or"

Following: "corporation,"

Insert: "or other entity,"

11. Page 3, line 11.

Following: "riding clubs;"

Strike: "school- and college-sponsored"

Insert: "riding"

12. Page 3, line 14.

Strike: "fairs;"

13. Page 4, line 10.

Following: "as"

Insert: "medication;"

14. Page 4, line 15.

Following: "of"

Strike: "a"

Insert: "another"

15. Page 4, lines 15 through 17.

Following: "to" on line 15

Strike: remainder of line 15 through "to" on line 17

16. Page 4, line 23.

Following: "activity"

Insert: "resulting from risks inherent in equine activities"

17. Page 4, line 24 through page 5, line 1.

Strike: subsection (2) in its entirety

Insert: "(2) An equine participant shall act in a safe and responsible manner at all times to avoid injury to the participant and others and to be aware of risks inherent in equine activities."

18. Page 5, line 8.

Strike: "and"

Insert: "or"

19. Page 5, line 11.

Following: "and"

Insert: "the participant's ability"

20. Page 5, line 25 through page 6, line 20.

Strike: sections 4, 5, and 6 in their entirety

Insert: " NEW SECTION. Section 4. Mule and horseracing.

[Sections 1 through 3] do not apply to the horseracing and
mule racing industry as regulated in Title 23, chapter 4."

Renumber: subsequent sections

-END-

Amendments to Senate Bill No. 140
First Reading Copy

Requested by Senator Doherty
For the Committee on Judiciary

Prepared by Valencia Lane
January 27, 1993

SENATE JUDICIARY COMMITTEE
BILL NO. 1-27-93
SB140

1. Title, lines 4 and 5.
Following: "AN ACT"
Strike: remainder of line 4 through "FOR" on line 5
Insert: "DEFINING THE LEGAL RESPONSIBILITY OF PARTICIPANTS IN
EQUINE ACTIVITIES,"
Following: "SPONSORS"
Insert: ", "
2. Title, line 6.
Strike: "REPEALING SECTION 27-1-733, MCA;"
3. Page 1, line 11.
Page 2, line 1.
Page 6, line 22.
Strike: "4"
Insert: "3"
4. Page 1, lines 20 through 24.
Following: "that" on line 20
Strike: remainder of line 20 through "activities" on line 24
Insert: "an equine activity sponsor or equine professional who is
negligent and causes foreseeable injury to a participant
bears responsibility for that injury in accordance with
other applicable law"
5. Page 2, line 4.
Following: "unmounted"
Insert: "or to assist a participant, equine activity sponsor, or
equine professional"
6. Page 2, line 5.
Following: "is"
Insert: "improperly"
7. Page 2, lines 7 through 9.
Following: "activity" on line 7
Strike: remainder of line 7 through "equine" on line 9
8. Page 3, line 2.
Strike: "and"
9. Page 3, line 5.
Strike: "."
Insert: "; and
(f) providing veterinarian or farrier services."

Amendments to Senate Bill No. 140
First Reading Copy

Requested by Senator Yellowtail
For the Committee on Judiciary

Prepared by Valencia Lane
January 27, 1993

1. Page 4, line 10.
Following: "as"
Insert: "medication;"

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 2

DATE 1-27-93

BILL NO. SB140

TE JUDICIARY COMMITTEE
BIT NO. 3
1-27-93
L NO. SB140

Amendments to Senate Bill No. 140
First Reading Copy

Requested by Senator Towe
For the Committee on Judiciary

MTLA

Prepared by Valencia Lane
January 26, 1993

1. Page 4, line 4.

Following: "are"

Strike: "an integral part of"

Insert: "or should be reasonably obvious, expected, or necessary
to persons engaged in"

1. Page 4, line 4.

Following: "are"

MTLA

Strike: "an integral part of"

Insert: "or should be reasonably obvious, expected, or necessary to persons engaged in"

LC 0019/01

1 of the equine to ride, inspect, groom, or evaluate the
2 equine; ~~and~~

3 (e) rides, trips, hunts, pack trips, or other equine
4 activities of any type, however informal, that are sponsored
5 by an equine activity sponsor; ~~and~~ (f) *providing veterinarian or farrier services.*

6 (4) "Equine activity sponsor" means an individual,
7 group, club, partnership, ~~or~~ corporation, *or other entity,* whether operating
8 for profit or nonprofit, that sponsors, organizes, or
9 provides the facilities for an equine activity. The phrase
10 includes but is not limited to pony clubs; 4-H clubs; hunt
11 clubs; riding clubs; ~~school and college sponsored~~ *riding* classes
12 and programs; therapeutic riding programs; operators,
13 instructors, and promoters of equine facilities; stables;
14 clubhouses; pony ride strings; ~~fairs~~ farms; ranches; and
15 arenas.

16 (5) "Equine professional" means a person engaged for
17 compensation in:

18 (a) instructing a participant or renting to a
19 participant an equine for the purpose of riding, driving, or
20 being a passenger upon the equine;

21 (b) selling or renting equipment or tack to a
22 participant; or

23 (c) providing veterinary or farrier services.

24 (6) "Participant" means a person, whether amateur or
25 professional, who directly engages in an equine activity.

1 whether or not a fee is paid to participate in the equine
2 activity.

3 (7) "Risks inherent in equine activities" means dangers
4 or conditions that are an integral part of equine
5 activities, including but not limited to:

6 (a) the propensity of an equine to behave in ways that
7 may result in injury or harm to or the death of persons on
8 or around the equine;

9 (b) the unpredictability of an equine's reaction to
10 such things as *medication; yellow tail* sounds; sudden movement, and unfamiliar
11 objects, persons, or other animals;

12 (c) hazards, such as surface and subsurface ground
13 conditions;

14 (d) collisions with other equines or objects; or

15 (e) the potential of *another* participant to ~~act in a~~
16 ~~negligent manner that may contribute to injury to the~~
17 ~~participant or others, such as to not maintain control over~~
18 the equine or to not act within the person's ability.

19 NEW SECTION. Section 3. Equine activity liability
20 limitations. (1) Except as provided in subsections (2) and
21 (3), an equine activity sponsor or an equine professional is
22 not liable for an injury to or the death of a participant
23 engaged in an equine activity. *resulting from risks inherent in equine activity*

24 ~~(2) Subsection (1) does not apply to the horseracing~~
25 ~~and mule racing industry as regulated in Title 23, chapter.~~

(2) An equine participant shall act in a safe and responsible manner at all times to avoid injury to the participant and others.

DEFINING THE LEGAL RESPONSIBILITY
OF PARTICIPANTS IN EQUINE
ACTIVITIES,

LC 0019/01

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 4
DATE 1-27-93
BILL NO. SB140

LC 0019/01

1 *Belle Tipton* Senate, BILL NO. 140 *Jawelton*
2 INTRODUCED BY *Swanson Keller* *HARP Peterson* *Hallenstail*
3 *Bo Brown* *Edwards* *Sayles* *Blanch* *Boyer* *Fisher*
4 A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING TORT LIABILITY
5 FOR EQUINE ACTIVITY SPONSORS, AND EQUINE PROFESSIONALS;
6 ~~REPEALING SECTION 27-1-733, MCA, AND PROVIDING AN IMMEDIATE~~
7 ~~EFFECTIVE DATE AND AN APPLICABILITY DATE.~~"
8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 NEW SECTION. Section 1. Purpose. The purpose of
11 [sections 1 through ³1] is to assist courts and juries in
12 defining the circumstances under which persons responsible
13 for equines may be found liable for damages to persons
14 harmed in the course of equine activities. It is the policy
15 of the state of Montana that a person is not liable for
16 damages sustained by another solely as a result of risks
17 inherent in equine activities if those risks are or should
18 be reasonably obvious, expected, or necessary to persons
19 engaged in equine activities. It is the policy of the state
20 of Montana that ~~persons who are responsible for equines or~~
21 ~~for the safety of persons engaged in equine activities and~~
22 ~~who are negligent are responsible as provided in [sections 1~~
23 ~~through 4] for injuries to those engaged in equine~~

24 ~~activities.~~ *an equine activity sponsor or equine*
professional who is negligent and causes
foreseeable injury to a participant bears
25 NEW SECTION. Section 2. Definitions. As used in
responsibility for that injury in accordance
with other applicable
law.

Montana Legislative Council

1 [sections 1 through ³1], the following definitions apply:
2 (1) "Engage in an equine activity" means to ride,
3 train, drive, or be a passenger upon an equine, whether
4 mounted or unmounted. *or to assist a participant, equine activity*
5 spectator at an equine activity, unless the spectator is *improperly* in
6 an unauthorized area in immediate proximity to an equine *or equine*
7 activity, ~~or by a person who participates in the equine~~ *profess*
8 ~~activity but does not ride, train, drive, or ride as a~~
9 ~~passenger upon an equine.~~
10 (2) "Equine" means a horse, pony, mule, donkey, or
11 hinny.
12 (3) "Equine activity" means:
13 (a) equine shows, fairs, competitions, performances, or
14 parades that involve any breed of equines and any of the
15 equine disciplines, including but not limited to dressage,
16 hunter and jumper horse shows, grand prix jumping, 3-day
17 events, combined training, rodeos, driving, pulling,
18 cutting, polo, steeplechasing, endurance trail riding and
19 western games, and hunting;
20 (b) equine training or teaching activities;
21 (c) boarding equines;
22 (d) riding, inspecting, grooming, or evaluating an
23 equine belonging to another, whether or not the owner has
24 received monetary consideration or another thing of value
25 for the use of the equine or permits a prospective purchaser

NEW SECTION. Section 4. Mule and
horseracing. [Sections 1 through 3] do
not apply to the horseracing and mule
racing industry as regulated
in Title 23, Chapter 4. LC 0019/01

1 ~~4.~~

2 (3) Subsection (1) does not apply:

3 (a) if the equine activity sponsor or the equine
4 professional:

5 (i) provided the equipment or tack and the equipment or
6 tack caused the injury because the equine activity sponsor
7 or equine professional failed to reasonably and prudently
8 inspect ~~and~~ ^{or} maintain the equipment;

9 (ii) provided the equine and failed to make reasonable
10 and prudent efforts to determine the ability of the
11 participant to safely engage in the equine activity ^{the participants} and ^{to ability}
12 safely manage the particular equine based on the
13 participant's representations as to the participant's
14 ability;

15 (iii) owned, leased, rented, or otherwise was in lawful
16 possession and control of the land or facilities upon which
17 the participant sustained injuries caused by a dangerous
18 latent condition that was known or should have been known to
19 the equine activity sponsor or the equine professional;

20 (iv) committed an act or omission that constituted
21 willful or wanton disregard for the safety of the
22 participant and the act or omission caused the injury; or

23 (v) intentionally injured the participant; or

24 (b) in a products liability action.

25 ~~NEW SECTION. Section 4. veterinarian and farrier~~

~~Liability limitations. (1) Except as provided in subsection
(2), a veterinarian or farrier is not liable for an injury
to or the death of a person who assists the veterinarian or
farrier in rendering veterinarian or farrier services,
whether or not the services are for compensation, to an
equine owned by that person.~~

7 (2) Subsection (1) does not apply:

8 (a) if the veterinarian or farrier:

9 (i) committed an act or omission that constituted
willful or wanton disregard for the safety of the person and
the act or omission caused the injury; or

12 (ii) intentionally injured the person; or

13 (b) in a products liability action.

14 NEW SECTION. Section 5. Repealer. Section 27-1-733,
15 MCA, is repealed.

16 NEW SECTION. Section 6. Two-thirds vote requirement.
17 Because [sections 3 and 4] limit governmental liability,
18 Article II, section 18, of the Montana constitution requires
19 a vote of two-thirds of the members of each house of the
20 legislature for passage.

21 NEW SECTION. Section ⁵7. Applicability. [Sections 1
22 through ³7] apply to injuries and deaths that occur on or
23 after [the effective date of this act].

24 NEW SECTION. Section ⁶8. Effective date. [This act] is
25 effective on passage and approval.

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 10
DATE 1-27-93
BILL NO. SB 140

Amendments to Senate Bill No. 140
First Reading Copy

For the Committee on Judiciary

Prepared by Valencia Lane
January 27, 1993

1. Title, lines 4 and 5.

Following: "AN ACT"

Strike: remainder of line 4 through "FOR" on line 5

Insert: "DEFINING THE LEGAL RESPONSIBILITY OF PARTICIPANTS IN
EQUINE ACTIVITIES,"

Following: "SPONSORS"

Insert: ", "

2. Title, line 6.

Strike: "REPEALING SECTION 27-1-733, MCA;"

3. Page 1, line 11.

Page 2, line 1.

Page 6, line 22.

Strike: "4"

Insert: "3"

4. Page 1, lines 20 through 24.

Following: "that" on line 20

Strike: remainder of line 20 through "activities" on line 24

Insert: "an equine activity sponsor or equine professional who is
negligent and causes foreseeable injury to a participant
bears responsibility for that injury in accordance with
other applicable law"

5. Page 2, line 4.

Following: "unmounted"

Insert: "or to assist a participant, equine activity sponsor, or
equine professional"

6. Page 2, line 5.

Following: "is"

Insert: "improperly"

7. Page 2, lines 7 through 9.

Following: "activity" on line 7

Strike: remainder of line 7 through "equine" on line 9

8. Page 3, line 2.

Strike: "and"

9. Page 3, line 5.

Strike: "."

Insert: "; and

(f) providing veterinarian or farrier services."

10. Page 3, line 7.

70.

- Strike: "or"
Following: "corporation,"
Insert: "or other entity,"
11. Page 3, line 11.
Following: "riding clubs;"
Strike: "school- and college-sponsored"
Insert: "riding"
12. Page 3, line 14.
Strike: "fairs;"
13. Page 4, line 10.
Following: "as"
Insert: "medication;"
14. Page 4, line 15.
Following: "of"
Strike: "a"
Insert: "another"
15. Page 4, lines 15 through 17.
Following: "to" on line 15
Strike: remainder of line 15 through "to" on line 17
16. Page 4, line 23.
Following: "activity"
Insert: "resulting from risks inherent in equine activities"
17. Page 4, line 24 through page 5, line 1.
Strike: subsection (2) in its entirety
Insert: "(2) An equine participant shall act in a safe and responsible manner at all times to avoid injury to the participant and others and to be aware of risks inherent in equine activities."
18. Page 5, line 8.
Strike: "and"
Insert: "or"
19. Page 5, line 11.
Following: "and"
Insert: "the participant's ability"
20. Page 5, line 25 through page 6, line 20.
Strike: sections 4, 5, and 6 in their entirety
Insert: "NEW SECTION. Section 4. Mule and horseracing.
[Sections 1 through 3] do not apply to the horseracing and mule racing industry as regulated in Title 23, chapter 4."
Renumber: subsequent sections

S.B. BILL NO. 140

INTRODUCED BY Senator Rea

A BILL FOR AN ACT ENTITLED: "AN ACT ^{DEFINING THE LEGAL RESPONSIBILITY} ~~LIMITING TORT LIABILITY~~ OF PARTICIPANTS IN EQUINE ACTIVITIES, ~~FOR~~ EQUINE ACTIVITY SPONSORS AND EQUINE PROFESSIONALS; REPEALING ~~SECTION 27-1-733, MCA~~ AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Purpose. The purpose of [sections 1 through ³~~4~~] is to assist courts and juries in defining the circumstances under which persons responsible for equines may be found liable for damages to persons harmed in the course of equine activities. It is the policy of the state of Montana that a person is not liable for damages sustained by another solely as a result of risks inherent in equine activities if those risks are or should be reasonably obvious, expected, or necessary to persons engaged in equine activities. It is the policy of the state of Montana that ^{an equine activity sponsor or equine professional} ~~persons who are responsible for equines or~~ who is negligent and causes foreseeable injury to a participant bears ~~for the safety of persons engaged in equine activities and~~ responsibility for that injury in accordance with other applicable law. ~~who are negligent are responsible as provided in [sections 1 through 4] for injuries to those engaged in equine~~ activities.

NEW SECTION. Section 2. Definitions. As used in

1 [sections 1 through ³], the following definitions apply:

2 (1) "Engage in an equine activity" means to ride,
3 train, drive, or be a passenger upon an equine, whether
4 mounted or unmounted. The phrase does not mean ^aactivity by a
5 spectator at an equine activity, unless the spectator is in
6 an unauthorized area in immediate proximity to an equine
7 activity, ~~or by a person who participates in the equine~~
8 ~~activity but does not ride, train, drive, or ride as a~~
9 ~~passenger upon an equine.~~

10 (2) "Equine" means a horse, pony, mule, donkey, or
11 hinny.

12 (3) "Equine activity" means:

13 (a) equine shows, fairs, competitions, performances, or
14 parades that involve any breed of equines and any of the
15 equine disciplines, including but not limited to dressage,
16 hunter and jumper horse shows, grand prix jumping, 3-day
17 events, combined training, rodeos, driving, pulling,
18 cutting, polo, steeplechasing, endurance trail riding and
19 western games, and hunting;

20 (b) equine training or teaching activities;

21 (c) boarding equines;

22 (d) riding, inspecting, grooming, or evaluating an
23 equine belonging to another, whether or not the owner has
24 received monetary consideration or another thing of value
25 for the use of the equine or permits a prospective purchaser

11
1-27-93
SB 140

1 of the equine to ride, inspect, groom, or evaluate the
2 equine; ~~and~~-

3 (e) rides, trips, hunts, pack trips, or other equine
4 activities of any type, however informal, that are sponsored
5 by an equine activity sponsor; and"

6 (f) providing veterinary or farrier services."
7 (4) "Equine activity sponsor" means an individual,
8 group, club, partnership, ~~or~~ corporation, ^{or other entity,} whether operating
9 for profit or nonprofit, that sponsors, organizes, or
10 provides the facilities for an equine activity. The phrase
11 includes but is not limited to pony clubs; 4-H clubs; hunt
12 clubs; riding clubs; ~~school and college-sponsored~~ ^{riding} classes
13 and programs; therapeutic riding programs; operators,
14 instructors, and promoters of equine facilities; stables;
15 clubhouses; pony ride strings; ~~fairs;~~ farms; ranches; and
arenas.

16 (5) "Equine professional" means a person engaged for
17 compensation in:

18 (a) instructing a participant or renting to a
19 participant an equine for the purpose of riding, driving, or
20 being a passenger upon the equine;

21 (b) selling or renting equipment or tack to a
22 participant; or

23 (c) providing veterinary or farrier services.

24 (6) "Participant" means a person, whether amateur or
25 professional, who directly engages in an equine activity,

whether or not a fee is paid to participate in the equine activity.

(7) "Risks inherent in equine activities" means dangers or conditions that are an integral part of equine activities, including but not limited to:

(a) the propensity of an equine to behave in ways that may result in injury or harm to or the death of persons on or around the equine;

(b) the unpredictability of an equine's reaction to such things as sounds; sudden movement; and unfamiliar objects, persons, or other animals;

(c) hazards, such as surface and subsurface ground conditions;

(d) collisions with other equines or objects; or

(e) the potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, such as to not maintain control over the equine or to not act within the person's ability.

NEW SECTION. Section 3. Equine activity liability limitations. (1) Except as provided in ^{subsection} ~~Subsections (2), and~~ (3), an equine activity sponsor or an equine professional is not liable for an injury to or the death of a participant engaged in an equine activity, resulting from risks inherent in equine activities. An equine participant shall act in a safe and responsible manner at all times ~~(1) Subsection (1) does not apply to the horseracing~~ to avoid injury to the participant and others and to be aware of the inherent ~~and mule racing industry as regulated in Title 23, chapter~~

DATE 1-27-93

I. SB 140

1 4. risks of the sport.

2 (3) Subsection (1) does not apply:

3 (a) if the equine activity sponsor or the equine
4 professional:

5 (i) provided the equipment or tack and the equipment or
6 tack caused the injury because the equine activity sponsor
7 or equine professional failed to reasonably and prudently
8 inspect ^{or} ~~and~~ maintain the equipment;

9 (ii) provided the equine and failed to make reasonable
10 and prudent efforts to determine the ability of the
11 participant to safely engage in the equine activity and to
12 safely manage the particular equine based on the
13 participant's representations as to the participant's
14 ability;

15 (iii) owned, leased, rented, or otherwise was in lawful
16 possession and control of the land or facilities upon which
17 the participant sustained injuries caused by a dangerous
18 latent condition that was known or should have been known to
19 the equine activity sponsor or the equine professional;

20 (iv) committed an act or omission that constituted
21 willful or wanton disregard for the safety of the
22 participant and the act or omission caused the injury; or

23 (v) intentionally injured the participant; or

24 (b) in a products liability action.

Mule and Horse Racing.

25 NEW SECTION. Section 4. ~~Veterinarian~~ - and - ~~farrier~~

NEW SECTION. Section 5. Applicability to governmental entities. Article II, section 18, of the Montana Constitution requires a vote of two-thirds of the members of each house to limit the liability of a governmental entity. Unless this act receives a two-thirds vote of each house, it is not applicable to the equine activities of a governmental entity to the extent that the liability of the governmental entity is limited by this act."

Renumber: subsequent sections

This act does not apply to mule or horse racing as regulated in liability limitations. (1) Except as provided in subsection title 23, chapter 4. (2), a veterinarian or farrier is not liable for an injury to or the death of a person who assists the veterinarian or farrier in rendering veterinarian or farrier services, whether or not the services are for compensation, to an equine owned by that person.

(2) Subsection (1) does not apply:

(a) if the veterinarian or farrier:

(i) committed an act or omission that constituted willful or wanton disregard for the safety of the person and the act or omission caused the injury, or

(ii) intentionally injured the person, or

(b) in a products liability action.

NEW SECTION. Section 5. Repealer. Section 27-1-733,

MCA, is repealed.

NEW SECTION. Section 6. Two-thirds vote requirement.

Because [sections 3 and 4] limit governmental liability, Article II, section 18, of the Montana constitution requires a vote of two-thirds of the members of each house of the legislature for passage.

NEW SECTION. Section ⁶6. Applicability. [Sections 1 through ³3] apply to injuries and deaths that occur on or after [the effective date of this act].

NEW SECTION. Section ⁷7. Effective date. [This act] is effective on passage and approval.

COMMITTEE--HOUSE JUDICIARY

Page 10

- BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE - REREFERRED - DATE READ

SB0108	GAGE, DEL		GENERAL, MINOR REVISIONS OF CRIMINAL JUSTICE INFORMATION LAWS				
	1/30	3/03		CONCUR AS AMENDED	3/3	VOTE: 18-0	3/06
SB0109	DOHERTY, STEVE		EXPAND CRIMINAL CODE DEFINITION OF "SERIOUS BODILY INJURY"				
	2/01	3/03		CONCUR	3/3	VOTE: 18-0	3/04
SB0117	HALLIGAN, MIKE		FAMILY LAW MEDIATION PROCESS				
	1/30	3/05		CONCUR AS AMENDED	3/5	VOTE: 18-0	3/08
SB0119	HALLIGAN, MIKE		GENERALLY REVISE PROBATE AND ESTATE LAWS				
	2/23	3/26		CONCUR AS AMENDED	3/26	VOTE: 17-1	3/30
SB0124	VAN VALKENBURG, FRED		REVISE FINDERS OF PROPERTY LAW				
	1/30	3/11		CONCUR	3/16	VOTE: 18-0	3/17
SB0125	VAN VALKENBURG, FRED		GENERALLY REVISE CRIMINAL PROCEDURE				
	2/01	3/03		CONCUR AS AMENDED	3/5	VOTE: 18-0	3/08
SB0129	DOHERTY, STEVE		ELIMINATE REQUIREMENT TO IDENTIFY DRIVER IN SCHOOL BUS VIOLATION				
	1/28	2/04		CONCUR AS AMENDED	2/4	VOTE: 17-0	2/08
SB0140	REA, JACK		DEFINING LEGAL RESPONSIBILITY IN EQUINE ACTIVITIES				
	2/04	3/02		CONCUR	3/3	VOTE: 16-2	3/04
SB0146	WATERMAN, MIGNON		LIMITED LIABILITY COMPANY ACT				
	1/28	2/04		CONCUR	2/4	VOTE: 17-2	2/08
SB0150	BARTLETT, SUE		CONFORM CHILD SUPPORT ENFORCEMENT LAWS TO FEDERAL LAW				
	2/02	3/10		CONCUR AS AMENDED	3/10	VOTE: 16-0	3/12
SB0153	DOHERTY, STEVE		REVISE REQUIRED AUTO LIABILITY INSURANCE REQUIREMENTS AND PENALTIES				
	2/10	3/12		CONCUR AS AMENDED	3/25	VOTE: 10-8	3/25
SB0173	BARTLETT, SUE		PROCEDURE FOR ALTERNATE RETIREMENT BENEFIT PAYEE UNDER FAMILY LAW ORDER				
	2/09	3/05		CONCUR	3/10	VOTE: 15-1	3/12

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN RUSSELL FAGG, on March 2, 1993, at
8:00 a.m.

ROLL CALL

Members Present:

Rep. Russ Fagg, Chairman (R)
Rep. Randy Vogel, Vice Chairman (R)
Rep. Dave Brown, Vice Chairman (D)
Rep. Ellen Bergman (R)
Rep. Vivian Brooke (D)
Rep. Bob Clark (R)
Rep. Duane Grimes (R)
Rep. Scott McCulloch (D)
Rep. Jim Rice (R)
Rep. Angela Russell (D)
Rep. Tim Sayles (R)
Rep. Liz Smith (R)
Rep. Bill Tash (R)
Rep. Howard Toole (D)
Rep. Tim Whalen (D)
Rep. Karyl Winslow (R)
Rep. Diana Wyatt (D)

Members Excused: Rep. Jody Bird (D)

Members Absent: No members absent

Staff Present: John MacMaster, Legislative Council
Beth Miksche, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 140, SB 37
Executive Action: None.

HEARING ON SB 140

Opening Statement by Sponsor:

SEN. JACK REA, Senate District 38, Three Forks, explained that
the purpose of SB 140 is to assist courts and juries in defining
the circumstances under which persons responsible for equine

activities may be found liable for damages to persons harmed in the course of equine activities.

Proponents' Testimony:

Pat Melby, Attorney, Montana Horse Council. Mr. Melby compared horseback riding to skiing and snowmobiling. It is an activity that many people from other states and countries come to Montana to participate in. And like skiing and snowmobiling, it's not without risk and injuries to the participant. Over the years, the responsibility for horseback riding has become very confused resulting most often in the sponsor of some type of horse activity being liable for injury, even when that injury was not caused by the negligence of that sponsor. This has resulted in increased inaccessibility to insurance and higher insurance premiums for these activities and is slowly putting equine activities out of business.

The purpose of SB 140 is similar to the Skiers and Snowmobilers Responsibility Act. It would define the responsibilities of the equine activity sponsors as well as participants. While the equine sponsor would still be liable for injuries caused by negligence, participants would be responsible for injuries that are caused by risks inherent in equine activities.

The purpose clause in section 1 is very important. This clause is necessary because it gives direction to the courts. The last sentence of section 1 very clearly states that an equine activity sponsor is liable for negligent acts.

The following proponents presented written testimony:

SEN. KENNETH MESAROS, Senate District 21, Cascade EXHIBIT 1
Louis Vero, E Bar L Ranch, Greenough EXHIBIT 2
S.B. Sias, Ten Mile Drivers, Helena EXHIBIT 3
Chuck D. Cavill, private citizen EXHIBIT 4
Doug Hammill, D.V.M., Old West Adventures, Whitefish EXHIBIT 5
Sandra Jankowski, 4-H riding instructor EXHIBITS 6 a-b
Kelly Flynn, Montana High County Cattle Drives EXHIBIT 7
Jesse Armitage, Flying D. Ranch EXHIBIT 8
Kelly Kelsey, Nine Quarter Circle Ranch EXHIBIT 9
Larry Holmquist, Eagle Mount, Bozeman EXHIBIT 10
Al Lien, representing the Gallatin Saddle and Harness Club and
the Montana Draft and Mule Association, Bozeman EXHIBIT 11
Ellen Hargrave, Hargrave Cattle & Guest Ranch, Marion E
EXHIBITS 12 a-z

Opponents' Testimony:

Russell Hill, Executive Director, Montana Trial Lawyers
Association, presented written testimony. EXHIBIT 13

Questions From Committee Members and Responses:

REP. TOOLE asked Ms. Hargrave if any insurance companies have given statistical evidence about what effect this bill would have on their rate policies. She quoted a February 1991 article from the magazine Equis saying, "Since 1989, we've allowed a credit for tort reform. We want to encourage more, but we allow up to 10 percent tort reform, and part of that is definitely for equine tort reform." The state of Colorado does get 10 percent tort reform right now. This information is included in Ms. Hargrave's testimony. See EXHIBIT 12b.

REP. TOOLE asked Roger Graham, Executive Director, Independent Insurance Agencies, if there will be any change in the accessibility or availability of policies if this bill is enacted. Mr. Graham pointed out he does not represent insurance companies; he represents the agents throughout the state. There is an initial 10 percent discount being offered by participating insurance groups. The 10 percent initial fee is subject to actual experience as the law takes effect, and that may or may not be tested by the court system. It is difficult to give precise premium information until there is some experience.

REP. TOOLE asked if it is possible to include a performance improvement clause in the bill. Mr. Graham said the reason this bill was initiated and is being pursued so vigorously is because owners are facing liabilities and risks for things beyond their control. The system is being used against the owners because of the cost of defending themselves in court. Horse owners and professionals sometimes are forced to settle, or their insurance companies make that choice for them, when, in fact, they won their negligence action and should not be liable. Mr. Graham had personally seen documentation of insurance rates from people in Colorado with reductions of 10 to 30 percent. That's an immediate benefit and advantage to horse owners. SB 140 balances out the two parties' risks and responsibilities.

REP. BROWN asked Mr. Melby whether horse owners had considered posting a warning provision in areas where people are riding, such as those used at ski resorts. Mr. Melby said that is a good idea, but not realistic. It would be virtually impossible to post warning signs everywhere people ride horses whether it be private or public land. And if that becomes a requirement, simply the failure to post the sign could cause negligence, and it doesn't add anything to the protection of the participant. REP. BROWN asked why participants are not required to sign a document before riding that puts the responsibility on them. Mr. Melby believes what REP. BROWN suggested is valid and makes sense; however, signs and documents don't add any protection.

Just as skiers have to follow the Skiers Responsibility Code on ski hills, REP. BROOKE thought that riders should have to purchase a ticket in order to ride. This ticket would have

essentially the same guidelines as the Skiers Responsibility Code. Mr. Melby said the notice at ski areas is different than riding horses. The Skiers Responsibility Act requires that ski areas post a notice of the code that's published by the National Ski Area Association. There is no code of conduct for participants in equine activities that could be similar to that. REP. BROOKE said there's enough language in the bill that gives direction to what a participant in equine activities is responsible for. Mr. Melby is not saying it can't be done, but there is a world of difference between the operation of equine activities and ski areas where there is one particular area to get on a lift, and familiar areas where warning signs are posted. REP. BROOKE's suggestion would be very difficult to implement.

REP. RUSSELL asked Mr. Hill if there are any federal statutes that may be comparable to this bill. Mr. Melby was not aware of any federal legislation that deals specifically with tort liability in a state district court.

Mr. Hill made it clear to the committee that MTLA's proposed amendment would not require horse owners to post notice. The MTLA believes it's relevant that the skier and snowmobile liability statutes in Montana require that posting of notice. But posting notice is simply an alternative way to make sure that people are aware of the risks they're supposedly assuming. The amendment does the same thing without requiring notice. This was discussed in the Senate proceedings, and the proponents of the bill did not approve amendment. The amendment is taken verbatim from the purpose clause of the bill; it's consistent with what all the supporters of the bill intend the bill to do, and it accurately states the negligence standard.

REP. VOGEL asked Mr. Hill how adequate notice would be posted. He doesn't feel it's realistic. Mr. Hill said simply put an amendment into the inherent risk that clarifies exactly what the bill says is its purpose in section 1. See EXHIBIT 13.

Closing by Sponsor: None

HEARING ON SB 37

Opening Statement by Sponsor:

SEN. TOM TOWE, Senate District 46, Billings, said it has become quite apparent that there's a void in the law which needs to be filled. Following, intimidating, harassing and threatening where there is no actual physical touching, battery or assault is currently not a crime; but it can be very devastating. In 1989, five women in Orange County, California, were murdered, and each had been stalked in advance of the murder. In Wyoming, a woman was murdered after being stalked. In Montana, several incidents have received wide publicity of people who have been stalked.

HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL

DATE

3-2-93

NAME	PRESENT	ABSENT	EXCUSED
Rep. Russ Fagg, Chairman	✓		
Rep. Randy Vogel, Vice-Chair	✓		
Rep. Dave Brown, Vice-Chair	✓		
Rep. Jodi Bird	✓		
Rep. Ellen Bergman	✓		
Rep. Vivian Brooke	✓		
Rep. Bob Clark	✓		
Rep. Duane Grimes	✓		
Rep. Scott McCulloch	✓		
Rep. Jim Rice	✓		
Rep. Angela Russell	✓		
Rep. Tim Savles	✓		
Rep. Liz Smith	✓		
Rep. Bill Tash	✓		
Rep. Howard Toole	✓		
Rep. Tim Whalen	✓		
Rep. Karyl Winslow	✓		
Rep. Diana Wyatt	✓		

HR:1993

wp.rollcall.man

CS-09



EXHIBIT 1
DATE 3-2-93
SB 140

MONTANA STATE SENATE

January 8, 1993

Montana Horse Council

To Whom It May Concern:

I want to relay a personal experience that occurred on my ranch that may relate to pending legislation.

Several years ago when we were branding calves, I had several friends attend to watch the associated activities. After all the work was completed one of these "friends", without permission from me, placed his young daughter on one of my ranch horses. She didn't know how to ride. The result was that the girl fell off and the horse accidentally stepped on her creating serious injury to her lower leg.

After some major medical bills accumulated, the "friend" who wasn't even invited and the one who placed the girl on the horse without permission, acquired a lawyer and with a lawsuit pending, my insurance compensation settled out of court. This did not result in out-of-pocket expense for me, yet it undoubtedly increases insurance premiums.

I hope this experience will help in testimony in pending legislation.

Respectively submitted,

A handwritten signature in cursive script, appearing to read "Senator Ken Mesaros".

Senator Ken Mesaros

STATEMENT FOR SUPPORT OF SB 140

Defining Legal Responsibilities of Participants in
Equine Activities

My name is Louis Vero from Greenough. I am representing a dude ranch in the Garnet Range on the west side of the divide. I support SB 140.

I hope it is obvious that in an operation like ours, and not only around horses, safety is a priority in our responsibilities to our guests, employees and ourselves. In over 50 years of operation, we've not had a claim against us. Yet, three years ago our liability insurance premium was multiplied 10 times. That was when I learned the definition of litigious in describing the nature of our country. Generally, I would hope this bill would address that litigious nature and change it to one of responsibility for ourselves. Specifically, I can see this bill helping to lower our operating costs.

gle

Testimony of S. B. Sias
in support of **Senate Bill 140**
March 2, 1993

I am S. B. Sias. My address is 1120 Mill Road, Helena. I have lived in the Helena valley for 50 years and have been involved in horse related activities during those years. I am currently a member of the Ten Mile Driving Club and the Helena Trail Riders. Both of these organizations participate in community service programs. The past few years we have had to discontinue them as we cannot afford the liability insurance. In most cases we do not charge for our services. In some instances, we accept donations and the money received is put back into community projects. A few of the programs we have had to cancel are:

1. Kids Santa Claus rides during holidays
2. Weddings
3. Participation in parades in Helena and East Helena
4. Wagon rides during a three day cowboy poetry gathering
5. Horse and carriage rides during the local art walk
6. Educational exhibition of horses and wagons for local schools to promote agricultural awareness.

I ask that you approve Senate Bill 140. Thank you!

SA

Called & talked to get permission to use fair
testimony 1/15/93

rec'd 1/12/93

Chuck D. Cavill

8:50 AM

805 Swamp Creek Road

Plains, Mt. 59859

OKAYED

EXHIBIT 4

DATE 3-2-93

SB 140

Jodie Bird

Representative Dist. 52

Dear Jodie, I am writing you concerning a bill called L. C. 19
the "horsemens safety act". The bill defines the risks and responsibilities
of both parties in equine activities. My wife and I are looking at starting
a trail ride, pack trip business in Sanders county. One of the major costs
of starting this business is liability insurance. (around \$4,000 for
a 4 month operating season for 8 - 10 horses)

This bill would and should lower insurance rates for businesses like
ours plus do the same for arena owners and ranchers who like to have friends
come out and ride but feel they must have liability insurance to do so.

This bill will at least clarify the party who is responsible in
times of accidents, etc...

In closing, I favor the "horsemans safety act" and hope that you
will too.

Thanks; Chuck D. Cavill
826- 4491

Chuck D. Cavill

Rep Jim Seayles - FYI
Seay # 27

L. Vrs. Ins.

Ins will drop if passed

J. Bird

OLD WEST ADVENTURES

~~January 20, 1993~~ March 2, 1993

Ladies and Gentlemen of the Montana ~~Senate~~ House:

Horses have been my lifelong passion and the subject of my three rewarding careers in Montana - veterinarian, equine and horse farm consultant, and operator of the horse activities and old west programs at The Big Mountain Ski and Summer Resort in Whitefish. Currently, we transport around 10,000 guests a year with trail and pony rides, and horsedrawn wagons and sleighs at The Big Mountain.

I come to you today in support of senate bill 140* as a representative of many Montana horse professionals and individual horse owners. 100% of Montana horse people that I have talked with about this bill support it, want it, and need it.

Horse owners and professionals in Montana currently face risks and liability that are undefined, inequitable, and which must be shared by those who want to participate in equine activities. This suppresses the enthusiasm, growth, development and economy of our industry. It promotes a negative, fear-of-unreasonable-lawsuit atmosphere. Senate bill 140 clearly and thoroughly defines and balances each party's risks and responsibilities in a realistic and equitable way.

* I can assure you that the majority of people engaging in equine activities as participants in Montana are willing to assume their reasonable share of the inherent risks and responsibility. They want freedom of choice to select from a greater array of horse activities. In addition to Montana residents, they come to us from all over the world (all 50 states and over 30 foreign countries in my business alone) and they want to experience Montanas western heritage. To most that means, among other things, horses. They return year after year, they become better riders, they want more advanced horse experiences as they progress. Many simply want to ride at the level they do with their own horses at home.

However, options are currently limited. Although horse owners and providers are very willing to accept reasonable risks and liabilities, many are unable or unwilling or uncomfortable accepting risks and liability that go so far beyond what they can influence and control. No matter how good a job we do, how careful we are, how good our horses and equipment are, we cannot avoid unrealistic claims.

It is especially tragic that many qualified horsemen and women and certified instructors are afraid to share their knowledge, skills and expertise because of the level of liability, risk and insurance rates they currently face. Horse programs which compare to hunter safety and drivers training are therefore suffering. With willing instructors such programs have the potential to improve safety records, reduce accidents and create a new generation of horse experts.

The ski industry has legislation comparable to Senate bill 140 which has reduced unrealistic claims (and the associated wasted resources, money and court time), softened insurance rates and led to expanded insurance choices and sources. Comparable horse liability legislation in Colorado and other western states has resulted in the same positive results for horse owners, providers and participants in those states.

Senate bill 140 can give all parties the same advantages in Montana. Horse people on all levels want it and need it. It is well researched, well written, fair-to-all-parties legislation. I implore you to approve Senate bill 140, without amendments, without delay.

Respectfully,

Douglas Hammill D.V.M.

Doug Hammill D.V.M.

January 17, 1993

EXHIBIT 6(a)

DATE 3-2-93

SB 140

Honorable Chairman and Members of the Senate Judiciary Committee:

Two of our three children are Native American and both experienced severe frustrations as adolescents in school as the result of learning disabilities, adoption issues, and coping with their minority status. After experiencing a sort of living hell with our oldest son during his high school years, someone very wise strongly recommended that we get our daughter involved with horses when she too started to show signs of trouble in her sophomore year. Now that I own a horse, I humbly realize what two strangers risked when they allowed her to use their horses for 4H lessons. No one should have to risk so much in trying to help someone else. I strongly believe that the mutual love between my daughter and the weanling filly that she raised saved her life from the years of confusion that continue to plague her older brother. Please support Senate Bill 140 so that others may benefit from a relationship with these magnificent creatures, and so that I personally may be able to pass on such an experience to some other child or adult in need without having to worry about losing everything we own. We need this law so that children may receive lessons, so that landowners can allow horse people to cross their land, and so that stables can board and lease horses to residents and tourists alike - all without fear of unfounded lawsuits.

In addition I would like to refer you to the attached writeup which appeared in the current issue of my national breed magazine. Bob Miller is an example of the best that Montana has to offer and he should be allowed to operate this wonderful enterprise without undue liability hindrances, just as the ski industry does since the passage of the ski liability bill. We simply must stop making it so difficult for businesses like this one which are so beneficial to Montana's image (and to our economy) to locate and operate successfully here.

Respectfully submitted

Sandra S. Jankowski

Sandra S. Jankowski

HE
91

For Ellen Hargrave

My name is Kelly Flynn and I am here representing Montana High County Cattle Drives Inc. We are a group of ranchers and outfitters from Broadwater County who decided to pitch in together to run two cattle drives. We started inquiring in the fall prior to our June drives about acquiring insurance. Early that fall, we had an insurance quote of around \$2,200. for \$500,00 in liability insurance. Several months later we went to fill in the details and pay for the insurance and the insurance cost quote was \$7200. We thought that was a little high for our 31 clients and we did alot of investigation into alternate insurance choices. We finally were able to obtain insurance from another carrier for just over \$5200. Is that high? We feel that this insurance cost is excessive and we support this legislation which will hopefully lower these costs.



EXHIBIT 6 (b)
 DATE 3-2-93
 SB 140

Of particular interest . . .



comment . . .
 "Wouldn't this
 make a great
 prize?"

. . . quickly
 became a reality.
 Filming for
 the segment
 was scheduled
 for mid-
 December,
 with a 90%
 probability
 that it will air
 January 20,
 1993.

Miller sent
 video footage
 of vacationers

uled for July 16, 1993 at the Ellington
 Agricultural Center State Fairgrounds.
 The Honorary Chairman for the event is
 music industry giant and community
 leader Buddy Killen.

"This is a wonderful opportunity for
 Tennessee Special Olympics. We believe
 this show can grow to become a premier
 event in Nashville in the years to come,"
 said Dan Surface, Director of
 Development for Tennessee Special
 Olympics. "We are truly excited about
 our association with the TWHBEA and
 the commitment from such an outstand-
 ing community leader as Buddy Killen."

Tennessee Special Olympics is cele-
 brating 25 years of offering year-round
 sports training and athletic competition
 for children and adults with mental retar-
 dation. In 1992 alone, Tennessee Special
 Olympics helped more than 12,000 ath-
 letes develop physical fitness and partici-
 pate in the sharing of gifts, skills and
 friendship.

WALKING HORSE PACK TRIP FEATURED AS PRIZE ON WHEEL OF FORTUNE!

Tennessee Walking Horses will flat walk
 into the homes of approximately 14 mil-
 lion Americans on January 20, 1993 as
 part of one of two trips offered on the
 popular game show, *Wheel Of Fortune*.

Last summer, Sam Robertson,
 Executive Vice President of Hollywood-
 based Game-Show Placements, Ltd., and
 his wife accompanied her brother and
 sister on a Montana pack trip vacation.
 The sister, Nadine Symons, is an accom-
 plished photo journalist with the well
 known *Horse and Horseman* publication
 who has provided *Voice* with photos for
Foto Finale.

The group chose for their guide
 licensed outfitter Robert E. Miller of
 Great Falls, Montana, a former TWH-
 BEA director who uses Tennessee
 Walking Horses exclusively for his
 wilderness pack trips.

Robertson, a non-horseman, fell in
 love with the "Big Sky" mountain coun-
 try and was impressed with the smooth-
 riding, even tempered vehicles that pro-
 vided the transportation.

What began probably as an off-hand

aboard walking horses, accompanied by
 color separations from the *Voice* files to
 prepare the 10 second promotional spot.

This generous donation on the part of
 Miller Outfitters makes possible what
 the TWHBEA has long
 hoped for, but
 couldn't afford . . .
national exposure.

So, grab your cal-
 endar and local pro-
 gramming guide and
 circle January 20th
 and *Wheel Of Fortune*
 in red!

NEW ONE-DAY SHOW IN NASHVILLE TO BENEFIT TENNESSEE SPECIAL OLYMPICS

The TWHBEA and
 Tennessee Special
 Olympics have joined
 forces to establish a new
 one-day show in
 Nashville!

The event is sched-



NAME: Jesse Armitage
TITLE: Horse Division Supervisor
REPRESENTING: Flying D Ranch
Gallatin Gateway, MT

I am here in support of Senate Bill 140 on behalf of the Flying D Ranch and myself. The Flying D Ranch operates an outfitting business for big game, consequently, we have clients who choose to hunt on horseback. We also, on a limited basis, take guests for horseback rides and allow non-profit groups and clinics to use our facilities and horses.

As horse division supervisor, I have the responsibility of matching clients with prospective mounts. All the horses on the ranch have been screened and selected on amiability and performance. The tack and equipment used are of the highest quality and are kept in excellent condition at all times. Our clients and groups are always accompanied by a competent horse person.

The above practices are essential for the safety of our clients, guests, and the reduction of personal and ranch liability claims. Although safety is a high priority, there are times when, as you well know, horses behave in ways that are not acceptable or predictable. These actions are out of the control of the person or persons managing the horses.

My personal feeling, and that of the management of the Flying D, is that a bill such as S-140 is necessary and in the best interest of landowners, horse owners, trainers, farriers, veterinarians, and anyone that is associated with horses in Montana. The bill in no way indicates that negligence is acceptable, but only protects the average Montana horse person and property owner.

Another area of concern for the Flying D Ranch is the use of facilities, especially indoor corrals, by persons other than employees. This would include, groups like Eagle Mount. Eagle Mount provides therapeutic activities for disabled people, allowing them the opportunity to ride horses for therapy and fun. I'm sure the volunteers conducting the Eagle Mount program share our concerns regarding the liabilities involved with any horse-related activities. Senate Bill 140 could help clarify where liabilities begin and end, and afford some protection for those involved in such civic-minded endeavors.

On a more personal basis, I hold horse training clinics involving people riding their own horses under my direction. My attorney at one point suggested that I should not own any real or personal property to avoid liability suits. On his advice I transferred all titled property into my wife's name, which was not only expensive but kept me from voting in school elections. I have since corrected this problem, but if legislation such as Senate Bill 140 had been in force at that time, I would not have been forced to transfer the titles just to protect myself.

I feel strongly that passing S-140 will enhance the economy and well being of Montanans.

EXP. DATE 3-2-93
SB 140

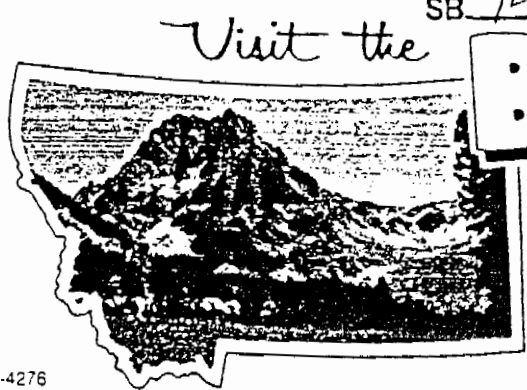


Nine Quarter Circle Ranch

5000 TAYLOR FORK ROAD
GALLATIN GATEWAY, MONTANA 59730

In the Gallatin and
Yellowstone country
of the Montana
Rockies.

Ranch Telephone (406) 995-4276
Home Telephone (406) 586-4972



Visit the

**BIG
SKY**
Country

Kim & Kelly Kelsey

Jan. 11, 1993

Shirlee Wirth
P.O. Box 5233
Helena, MT 59601

Dear Shirlee:

Thank you very much for your phone call as well as your update on the Horsemen's Safety Act. Since I most likely won't be able to be present when it reaches the Senate Judiciary Committee, I wanted to take this opportunity to write to you and ask you to place this letter in the records for us. We very much support the Horsemen's Safety Act and feel that it would add some needed stability and predictability to the horse and the people who utilize them. We do not feel that this Bill exempts anyone who handles horses from showing due care and diligence while around them and assisting others to enjoy horses at the same time. However, I do feel that it will help to inform those who engage in horseback activities that there are potential risks involved in being around horses and that they are accepting some of those risks when they voluntarily choose to do so.

We very much appreciate your time and effort in putting this Bill before the Legislature and we'll hope for a successful outcome.

Sincerely,

Kim & Kelly Kelsey
Kim and Kelly Kelsey

P.S. I'm real sorry to be absent during this most important time and hope that you and Ellen and others will be able to "pinch-hit" for us. Again, many thanks and we'll talk to you before long.

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HOUSE OF REPRESENTATIVES

WITNESS STATEMENT

PLEASE PRINT

NAME LARRY HOUNDIUST BUDGET _____

ADDRESS 6901 GOLDEN STEIN LANE, BOZEMAN, MT 59715

WHOM DO YOU REPRESENT? EAGLE MOUNT

SUPPORT ✓ S.B. 140 OPPOSE _____ AMEND _____

COMMENTS: We work extensively with the disabled in a hippo therapy, horse program. We use many volunteers. We train our volunteers and clients, with safety first but we need some relief from unjustified liability issues with horses.

After testimony - please note that horses cannot read or write but have a mind of their own. Also, not every activity is for profit so tickets are not sold.

House Judiciary Committee
Beth Miksche, Secretary
Montana State Capitol Station
Helena, Montana 59620

March 5, 1993

Good Morning:
Representative Fagg Chairman; Representatives:

I am Al Lien, Bozeman, Montana, testifying on behalf of the Gallatin Saddle and Harness Club and the Montana Draft and Mule Association.

The Gallatin Saddle and Harness Club actively represents the horse interest in the Bozeman area since 1947. The group provides the horse interest with educational training and safety workshops, horse shows, precision riding, parades, and cooperates with special interests such as the therapeutic riding program at Eagle Mount. With the exception of a minor mishap or two the club has an accident free record.

The Montana Draft Horse and Mule Association represents some 200+ members who own, show interest in, or actively participate in driving horses. It was a Montana Draft Horse and Mule Association member that took the Billings Horse Trolley car to Washington D.C. to President Clinton's inaugural parade. This was Montana's entry.

However large or small, the horse is a significant part of Montana's economy. These two organizations would like you to consider Senate Bill 140 and recommend passage without amendment.

Thank you,

Al Lien

Al Lien

Testimony before House Judiciary Committee

Ellen Hargrave
Hargrave Cattle & Guest Ranch
300 Thompson River Road
Marion, MT 59925

When Governor Racicot addressed the people in his state of the state talk he

spoke of a need to approach problems with fairness and honest purpose.
You've seen that there is a problem.

The horse people of Montana have come before you, from far and near, from all walks of life with honest purpose, asking you to address this problem with a bill that has been fine tuned over several months.

You've heard testimony this morning about money, insurance, lost opportunities, perceived liability and fear, but again the Governor summed it up best when we briefed him on this legislation - this lack of definition

of risks and responsibilities - creates a "division of community."

We put out or forgo some things to live in this great state - with many blessings returned. What we should not have to live under is the unnecessary fear of losing all you have worked for when you are not at fault.

You are Representatives of the people and, have a rare opportunity to make a difference far past your terms - in our sense of community.

S.B. 140 HORSEMEN'S SAFETY ACT INDEX

and N Ranch & Rocky Mountain Equestrian Center

ter Circle Guest Ranch, support

de Ranch Blackmail

2

Facility, Unfair suit

esaros - Personal experience

tain Ranch, Unfair payment

rance

Law Resulted in 10% Premium Reduction

re Ranch, Colorado, 10% reduction

ayley Ranch, Foster, 12% reduction

Ranch, 10% reduction

azy J Guest Ranch, Colorado Positive effect of Law

River Ranch, Colorado, Guest understand inherent risks of sport

River Ranch, Colorado, More Insurance Markets at Less Cost, 30% reduction

EXHIBIT #12(b)
DATE 3-2-93
71 SB-140

28. 28. Handicapped Riding Project Cancelled due to Fear
Missoula Back Country Horsemen,
30. Oregon Law, Edginton : Need for
Insurance Availability and Affordability
32. "Understanding Oregon's Bill" magazine article explaining Oregon's law
33. (cont) "No One Should Relax Their Safety Precautions, Because of the
b Bill - Prevention is Still Better Than Cure."
34. Montana Dept. of Livestock - Minimum number of Horses in Montana, Implied
Economic Impact
36. (cont)
39. Equine Community Economic Contribution Nationwide - Fact Sheet
- 101

EXHIBIT #12(b)
DATE 3-2-93
SB-140

42. Kids and Horses Belong Together Sandra Jankowski
43. Outfitted Horse Trip Donation, importance of Horse Outfitting, Wheel of Fortune
Donation - Horse Industry Exposure
44. No Wagon . Trains Will Roll
45. Spanisk Creek Ranch, Colorado, Inherently Risky Sport These Horses

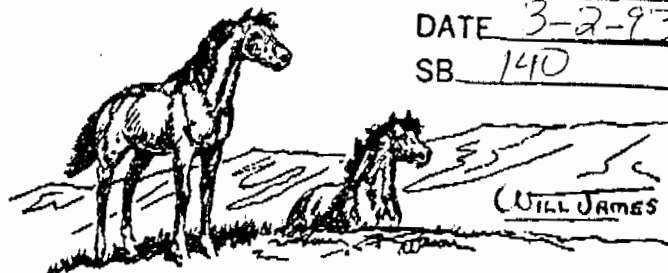
EXHIBIT 12 (d)

P.1/3

DATE 3-2-93

SB 140

Rm 312-1A



ELKHORN RANCH

TO: Montana State Capitol

ATTN: HOUSE JUDICIARY COMMITTEE - SB 140

FAX: 1-444-4800

FROM: Elkhorn Ranch
Linda G. Miller

FAX: 406-995-4291 (voice contact necessary)

DATE: March 2, 1993

RE: Senate Bill 140 Horseman's Safety Act

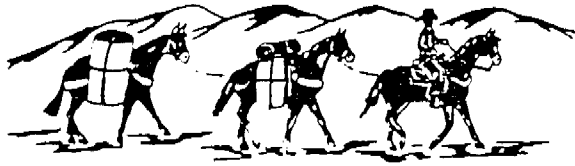
PAGES: 1 (including cover)

On behalf of the Elkhorn Guest Ranch, I am asking for your support of Senate Bill 140, the Horseman's Safety Act.

This bill will not relieve us of any negligence but will reduce the risk of frivolous suits as well as require people to assume at least part of the responsibilities and risks involved in horseback riding. By having participants accept part of the risk, there is every indication that skyrocketing insurance costs will stabilize. These costs are so out of perspective, that small operations specializing in horseback riding, an activity that embodies the western heritage, are faced with closing or under insuring.

For Montana, its economy, its people and its heritage, I urge you to support this equine liability limitation law.

BACK COUNTRY HORSEMEN OF MONTANA



P.O. Box 5431
Helena, MT 59604

EXHIBIT 12 (e)
DATE 3-2-93
SB 140

March 2, 1993

SENATE BILL 140 EQUINE LIABILITY

Mr. Chairman, Ladies & Gentlemen of the House Judiciary Committee.
I am Bill Maloit, Issues Chairman for the Back Country Horsemen Of Montana.

The Back Country Horsemen Of Montana is incorporated under the laws of the State Of Montana as a Non-Profit Educational Corporation.

We have Chapters at Kalispell (Flathead), Polson (Mission Valley), Libby (Cabinet), Plains (Sanders County), Eureka (Tobacco Valley), Missoula, Hamilton (Bitter-Root), Conrad (East Slope), Great Falls (Charlie Russell), Helena (Last Chance), Bozeman (Gallatin Valley and Billings (Greater Yellowstone).

We are affiliated with the Back Country Horsemen of America with State Organizations in Montana, Idaho, Washington, California, Nevada, Wyoming, Oregon, New Mexico, Utah and Colorado. The movement has spread to the Canadian Provinces.

Our credibility is firmly established in Public Land Management discussions. Educational programs and field service work with the Land Management Agencies are the key components to our success and expansion.

As experienced users of horses and mules in Montana's Roadless Back Country and Wilderness Areas we are knowledgeable there are hazards and risk involved. We advise and educate members and interested publics at our activities and meetings. Some of our members are equine professionals and passage of this Act will eliminate fear of unjust law suits.

The Back Country Horsemen of Montana support passage of Senate Bill 140.

I ask that this letter be included in the hearing testimony.
Thank you for your consideration.

Sincerely,

Bill Maloit
Bill Maloit

Issues Chairman

104



DATE 5-2-73
SB 140

LONE MOUNTAIN RANCH

P.O. Box 160069 • Big Sky, MT 59716
Phone (406) 995-4644 • FAX (406) 995-4670

SENATE BILL 140 TESTIMONY

March 2, 1993

by

**Robert L. Schaap, Lone Mountain Ranch
Big Sky, Montana**

Horses are big business in Montana. Lone Mountain Ranch is only one of many guest ranches in Montana, and our business, alone, employs 70 full-time staff with well over \$1 million in payroll. Our industry is important to Montana's economy.

The business climate in Montana is harsh. Montana laws significantly increase the every-day cost of doing business in our state, thus placing Montana's business community at a competitive disadvantage with other states. To earn comparable profits, Montana businesses must charge their customers more than businesses in other states charge to provide the same service. Equine liability is one of several areas in which Montana businesses such as mine are at a competitive disadvantage.

Falling from a horse in our state is analogous to winning the Montana lottery! Two years ago, immediately after receiving riding skills training, one of our guests fell from a stopped, perfectly behaved horse and broke her hip. To avoid court costs, our insurance company settled with this woman for \$27,113 even though we were not negligent! This guest even had personal health insurance that covered much of her costs. To add insult to injury, she had a good enough experience with us that she attempted to make reservations to return the following year!

Suits and settlements, such as this, where no negligence is involved, add to the cost of liability insurance paid by every horse-related business. Our liability insurance last year was \$28,185 which is a very major operating expense. High insurance costs, resulting from liberal liability laws, are passed on to the customer in the form of higher prices. Higher insurance prices in Montana make it more difficult to compete with similar businesses in states like Colorado that have more balanced liability laws.

Our insurance carrier has indicated that our rates would, in fact, be reduced if Montana adapts a bill to limit equine liability. (Copies of letters attached)

I urge you to help level the playing field. Pass Senate Bill 140 and take a big step toward making Montana a better place to do business. Thank you for your consideration.

GILLINGHAM & ASSOCIATES, INC.

January 15, 1993

Mr. Robert Schaap
Lone Mountain Ranch
North Forkland Road
BIG SKY MT 59716

RE: EQUINE ACTIVITIES - LEGISLATIVE DECLARATION - EXEMPTION FROM
CIVIL LIABILITY

Dear Bob:

Gillingham & Associates, Inc. has recently completed a liability insurance program for outfitters, guides and dude ranches, kicking off in thirteen states February 1st. The insurance company providing coverage is the Gulf Insurance Company, Best rated A+8 and in terms of size, one of the top 25 insurance companies in the U.S.

Designing a specialty insurance program for your industry has taken nine months and hundreds of man hours. The research involved was extensive. As you have experienced, insurance companies are not standing in line to underwrite equine activities. I have interviewed several hundred outfitters, guides and dude ranch owners, and have heard the same statement as many times: "When you put a green rider on a 1200 pound animal that by its very nature is a flight animal in lieu of a fight animal, accidents can and will occur. The majority of accidents are not a result of negligence but of circumstances that may cause the animal to react in such a way to injure its rider."

Several states have passed laws limiting liability related to equine activities. The Colorado law has resulted in the reduction of insurance rates for outfitters, guides and dude ranches in Colorado and has increased the availability of coverage in Colorado. When I underwrite an identical risk in Colorado verses Montana, it goes without saying that I prefer the Colorado risk and will offer better terms, conditions and rates as a result of the new Colorado law.

As a Program Manager, underwriting equine activities on behalf of insurance company, I can factually state that a law such as Colorado 13-21-117, introduced to Montana, will reduce insurance rates and increase the number of insurance companies competing for your and your industries business.

Sincerely,



Thomas S. Gillingham

TSG:mcw

THE SWALES AGENCY
INSURANCE - ALL LINES

EXHIBIT 12 (F)
DATE 3-2-93
SB-140


January 18, 1993

Robert Schaap
Lone Mountain Ranch
P.O. Box 69
Big Sky, Montana 59716

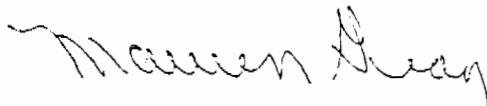
Regarding: Horse Liability Law

Dear Bob:

When Colorado passed it's horse liability act, it certainly gave leeway to extra benefits for people in the horse business. It also encouraged insurance companies to peruse lower rates. One of the many benefits we have derived from the Colorado law, has been that it enables us as an agency to write our preferred ranches and horse related businesses with a standard insurance market, not only does this give each insured more comprehensive coverage, but in our case, we have a guarantee that this market will stay in this type of business for 5 years. (We are on our second term of a 5 year commitment, needless to say, by having a well structured horse liability law, it certainly would give each insured more stability with his insurance needs.) In addition, the Colorado law seems to have done away with a lot of nuisance claims.

I want to wish you the best of luck in obtaining some type of legislation that will benefit your industry.

Sincerely,



Maureen Gray
President

MG/jr

Established dude ranch family, since 1945, capacity 70 people. Lot of people ridden safely for years.

Man and family of wife and two children came in , 1991
Booked for ten days, he expressed himself as being an excellent, experienced rider and horse owner. Man said he owned 8 horses at home. He asked for and got an advanced horse.

He went out in morning and got along alright, in afternoon Owner/Operator was on a ride that was parrelling the one he was on.

Man fell off horse.

He said he took his hat off, and slapped it against his leg, horse started to run he was a very heavy man - weighed 250-300 pounds. He fell off.

He sprained leg on horse.

I walked him, and my & his horse, back to ranch. He seemed to be all right, just didn't want to be on horse. At that time didn't seem to blame the horse.

He laid down for a while. He eventually got uncomfortable during the night. Went into town to a doctor. Results - he had internal bruising , but no treatment advised by doctor. Might have broken ribs. Did not tape chest.

He and family stayed here another 8-9 days. His had continued to ride for the whole length of stay. He had not ridden any more; fished and used ranch facilities. Left. When he left it was under good terms, we shook hands, both said sorry we had problem.

He had no anamosity. He left, paid his full bill. In about a week, when we cashed check, he had stopped payment. I telephoned him. "What's the deal?" "I've talked to lawyer," man said, "and he said we shouldn't have to pay for stay with unsafe conditions on your ranch." 10-14 days later four page letter - bemoaning fact we had an unsafe operation and unsafe horses. Our horses should take the hat being slapped against it's side OK. We ran that by our insurance people, possible lawsuit coming. They replied -"he accepted your services & not paying is wrong. We don't have any problem defending you in a lawsuit, go ahead and try to collect bill." Insurance people said it was coercion . We decided not to pursue the \$2500 - \$3000.00 bill. Wasn't worth the legal ramificaitons, not that we were wrong. It involved a heavy mental strain, right in the middle of our busy , income producing season. Might get \$2000, but have to spend \$2000 to defend ourselves.

This was the first time for this type of action on this ranch.

Dude Rancher, Eastern Montana

Training facility, owner - operated for 15 years. Professional horse woman with 50 school horses, lessons daily for 25-30 student weekly.

Man, who was a physician and student of horse training facility for two years, brought his own horse in to ride.

Was riding with daughter who was on a "school horse" (horse owned by the facility).

Man's own horse kicked out at other horse, hit daughter knee, knee was broken.

Lawsuit ensued.

\$50,000 was demanded.

Insurance company, Rhulens of New York, settled out of court for \$27,000.

Submitted by:
Cheryl Ziabon
450 Thompson River Road
Marion, MT 59925

1/16

EXHIBIT 12 (h)DATE 3-2-93SB 140**LONE MOUNTAIN RANCH**P.O. Box 160069 • Big Sky, MT 59716
Phone (406) 995-4644 • FAX (406) 995-4670**TESTIMONY OF ROBERT L. SCHAAP, LONE MOUNTAIN RANCH-BIG SKY
PERTAINING TO SENATE BILL 140
JANUARY 20, 1993**

The business climate in Montana is harsh. In many ways, hostile-to-business Montana laws unreasonably increase the cost of doing business in our state, thus placing our business community at a competitive disadvantage with other states. To earn comparable profits, Montana businesses often have to charge their customers more than their competition in other states to provide the same service.

Liability is one of several areas in which Montana businesses such as mine are at a substantial disadvantage. If someone falls from a horse in Montana and is injured, one of their first thoughts surely must be that of winning the national lottery!

One of our guests fell from a stopped, perfectly behaved horse two years ago and broke her hip. To avoid court costs, our insurance company settled with this woman for \$27,113 even though we were not at fault and she had personal health insurance that covered much of her costs! Suits and settlements, such as this, where no negligence is involved, add to the cost of liability insurance paid by every horse-related business. This, of course, increases the cost of doing business, and these costs are passed on to the customer in the form of higher prices. Higher prices in Montana make it more difficult to compete with similar businesses in states like Colorado with realistic liability laws.

I urge you to help level the business playing field. Pass Senate Bill 140 and take a big step toward making Montana a better place to do business.

Thank you for your consideration.

Robert L. Schaap

EXHIBIT 12-11
DATE 3-2-93
SB 140

J. R. Swales
THE SWALES AGENCY
INSURANCE - ALL LINES



As per phone conversation with Maureen Gray,
President, The Swales Agency:

"Because of the Colorado Senate Bill 90-84 ; Frontier Insurance has directed the Swales Insurance Agency, of Colorado Springs, to apply a committment made in a Chandler, Arizona, December 1990 conference, by President Peter Rhulen, Rhulen Insurance Group:

"a reduction in premium on all Colorado ranch holders that are members of the Colorado Dude & Guest Ranch Association; at least equivalent to a 10% reduction on all saddle animal premiums. Or a 5% discount across the board.

Re: Swales Agency
Maureen Gray
2860 S. Circle #2108
Colorado Springs, CO 80906
1-800-747-4679
719-597-7575

January 30, 1991



EXHIBIT 12(J)
DATE 3-2-93
SB 140

Montana State Horse Council
P.O. Box 5233
Helena, MT 59601

4 January, 1993

Dear Mrs Hargraves,

I hope my letter will help you enlighten people in Montana to the need for legislation, much like what we have passed here in Colorado. To give background we were having our liability insurance cancelled mid summer, at the hight of our tourist business, or ranchers being sued by guests who had fallen off horses at their ranches. There was even one case where a woman was riding her horse across a ranchers land without permission, and she fell off and a law suit followed.

Since the new legislation was passed two years ago there have been no awards given. Our insurance has come down by 10%. Our guests all read signs and are verbally warned that anyone who climbs on a horse in Colorado does so at their own risk. We have never had anyone state to us that they had a problem with this new legislation. In fact we have had many people from other States tell us that they wished their States would have similar laws. The days of not being able to get insurance are over in this State. Many companies now want our business, and even our fire insurance is coming down in price.

Here in Colorado tourism is a major part of our economy. The horse, and the person on the horse are a strong selling point for people coming to Colorado. Without the legislation we have passed we might have lost this most important amenity for our guests.

Sincerely

42

Antidotal testimony for Montana Horse Council

Dude Ranch: LOST VALLEY RANCH
Address: RT 2 SEDAWA CO 80135
Phone: 303-647-2311 Fax: 303-647-2315
Owners: BOB/KAREN FOSTER

How has horse liability legislation in your state affected you? Please provide the following as testimony for a Montana Equine Liability Bill that, simply put, says the rider has to assume an inherent risk and the horse owner must be grossly negligent to be held liable.

A. Has your state legislation made securing insurance easier? yes X no

B. After your state passed horse liability legislation, did this open up more insurance markets for you? yes X no

C. Have your insurance premiums changed? Give \$ amounts if possible Our insurance rates decreased 12% directly because of the passage of Colorado's bill

D. Do you have better insurance coverage now than before the legislation? yes X no

E. Has the legislation changed your level of safety awareness? yes X no

F. Does your insurance company require signed releases? yes no X

G. Has your Ranch atmosphere changed as a result of having added liability protection? Not necessarily - I just sleep better @ night

H. Have any guest not returned as a result of the law? yes no X

I. Have you had any injury settlements over \$20,000. ? yes no X
how many How many years of operations?

J. Have you had any nuisance threats of injury litigation? Example: (A guest wants his bill reduced due to an injury.) Approx. how many.
No!!

K. What are the most positive results you have experienced from the liability law for your Ranch. What should be told to the Montana legislators. Lower insurance rates, shared risk w/ our customers when riding, increased our educational and training on wranglers and guests
Signature Ranch owner or representative: Robert L Foster

Antidotal testimony for Montana Horse Council

Dude Ranch:

Address:

Phone:

Owners:

How has horse liability legislation in your state affected you? Please provide the following as testimony for a Montana Equine Liability Bill that, simply put, says the rider has to assume an inherent risk and the horse owner must be grossly negligent to be held liable.

A. Has your state legislation made securing insurance easier? yes ☒ no ☐

B. After your state passed horse liability legislation, did this open up more insurance markets for you? yes ☒ no ☐

C. Have your insurance premiums changed? Give \$ amounts if possible lowered 10%

D. Do you have better insurance coverage now than before the legislation? yes ☒ no ☐

E. Has the legislation changed your level of safety awareness? yes ☐ no ☒

F. Does your insurance company require signed releases? yes ☐ no ☒

G. Has your Ranch atmosphere changed as a result of having added liability protection? we can have a much better riding program

H. Have any guest not returned as a result of the law? yes ☐ no ☒

I. Have you had any injury settlements over \$20,000. ? yes ☐ no ☒
how many ___ How many years of operations? ___

J. Have you had any nuisance threats of injury litigation? Example: (A guest wants his bill reduced due to an injury.) Approx. how many. ___ No

K. What are the most positive results you have experienced from the liability law for your Ranch. What should be told to the Montana legislators. The guests like the new law

Signature Ranch owner
or representative: Dave Farney

Antidotal testimony for Montana Horse Court

DATE 3-2-99

File # SB-140

Dude Ranch:

Address:

Phone:

Owners:

How has horse liability legislation in your state affected you? Please provide the following as testimony for a Montana Equine Liability Bill that, simply put, says the rider has to assume an inherent risk and the horse owner must be grossly negligent to be held liable.

A. Has your state legislation made securing insurance easier? yes ☒ no ☐

B. After your state passed horse liability legislation, did this open up more insurance markets for you? yes ☒ no ☐

C. Have your insurance premiums changed? Give \$ amounts if possible lower for '93

D. Do you have better insurance coverage now than before the legislation? yes ☐ no ☒

E. Has the legislation changed your level of safety awareness? yes ☒ no ☐

F. Does your insurance company require signed releases? yes ☐ no ☒

G. Has your Ranch atmosphere changed as a result of having added liability protection? NO

H. Have any guest not returned as a result of the law? yes ☐ no ☒

I. Have you had any injury settlements over \$20,000. ? yes ☐ no ☒
how many ☐ How many years of operations? 5 yrs.

J. Have you had any nuisance threats of injury litigation? Example: (A guest wants his bill reduced due to an injury.) Approx. how many: 0

K. What are the most positive results you have experienced from the liability law for your Ranch. What should be told to the Montana legislators. greater peace of mind as a

Dude ranch owner!

Signature Ranch owner

or representative:

or representative:

Larry & Barbara Harmon

Antidotal testimony for Montana Horse Council

Dude Ranch: The Flyingman River Ranch
Address: 32042 Flyingman Rd, Mandan ND 58542
Phone: 303-927-3570 Fax: 303-927-9843
Owners: Dan Rea

How has horse liability legislation in your state affected you? Please provide the following as testimony for a Montana Equine Liability Bill that, simply put, says the rider has to assume an inherent risk and the horse owner must be grossly negligent to be held liable.

A. Has your state legislation made securing insurance easier? yes ☒ no ☐

B. After your state passed horse liability legislation, did this open up more insurance markets for you? yes ☒ no ☐

C. Have your insurance premiums changed? Give \$ amounts if possible no

D. Do you have better insurance coverage now than before the legislation? yes ☒ no ☐

E. Has the legislation changed your level of safety awareness? yes ☒ no ☐

F. Does your insurance company require signed releases? yes ☐ no ☒

G. Has your Ranch atmosphere changed as a result of having added liability protection? no

H. Have any guest not returned as a result of the law? yes ☐ no ☒

I. Have you had any injury settlements over \$20,000. ? yes ☐ no ☒
how many ☐ How many years of operations? ☐

J. Have you had any nuisance threats of injury litigation? Example: (A guest wants his bill reduced due to an injury.) Approx. how many. no

K. What are the most positive results you have experienced from the liability law for your Ranch. What should be told to the Montana legislators. Courts accept and understand the inherent risks of riding

Signature Ranch owner
or representative: [Signature]

Antidotal testimony for Montana Horse Council

EXHIBIT # 12 CA
DATE 3-2-93
SB-140

Dude Ranch:

Address:

Phone:

Owners:

How has horse liability legislation in your state affected you? Please provide the following as testimony for a Montana Equine Liability Bill that, simply put, says the rider has to assume an inherent risk and the horse owner must be grossly negligent to be held liable.

A. Has your state legislation made securing insurance easier? yes ☒ no ☐

B. After your state passed horse liability legislation, did this open up more insurance markets for you? yes ☒ no ☐

C. Have your insurance premiums changed? Give \$ amounts if possible Down about 30%

D. Do you have better insurance coverage now than before the legislation? yes ☒ no ☐

E. Has the legislation changed your level of safety awareness? yes ☐ no ☒

F. Does your insurance company require signed releases? yes ☒ no ☐

G. Has your Ranch atmosphere changed as a result of having added liability protection? No

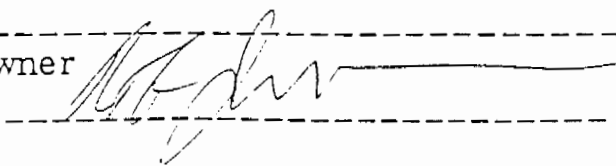
H. Have any guest not returned as a result of the law? yes ☐ no ☒

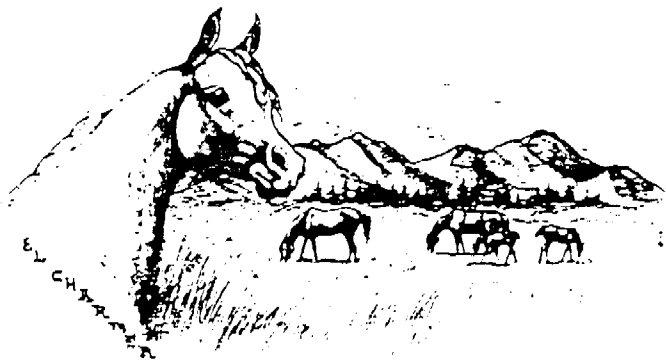
I. Have you had any injury settlements over \$20,000. ? yes ☐ no ☒
how many 2 How many years of operations? 20

J. Have you had any nuisance threats of injury litigation? Example: (A guest wants his bill reduced due to an injury.) Approx. how many. 0

K. What are the most positive results you have experienced from the liability law for your Ranch. What should be told to the Montana legislators. We now have more markets at less cost

Signature Ranch owner
or representative:





Mt. View-NBD Arabians

• Marie Welch • Norm & Donna Brown
8167 North County Road 11
Wellington, Colorado 80549

Shirlee Wirth
Montana Horsemen's Council
P.O. Box 5233
Helena, MT 59601

January 8, 1993

Dear Shirlee,

The Colorado Equine Civil Liability Act of 1990 has been very beneficial to our family in obtaining adequate and reasonably-priced liability insurance for our horse operation. We were being refused sufficient coverage until we sent a copy of the Liability Act to the insurance company headquarters. Previous to the passage of this act, we were insured by an agriculture oriented company which started putting numerous restrictions on our coverage to the point that it was practically worthless.

Without this act, we feel we would have ended up paying a significantly higher premium for the coverage we currently have, assuming we would have even been able to afford such coverage. I am certain there are several similar cases in Colorado although I do not have specific knowledge of them.

It should be recognized that the Liability Act does not eliminate a horse owner's responsibility for gross negligence, but rather recognizes the inherent risks of equine activities. This is analogous to the skier who also faces certain inherent risks as he/she glides down the slope.

There is another element to the Equine Civil Liability Act. With the passage of this measure, the Colorado Legislature recognizes the importance of the horse industry and has demonstrated a willingness to take steps to preserve the future of horse ownership and equine activities in Colorado.

Good luck to you and the Montana Horsemen's Council.

Sincerely,

Norm Brown
Immediate Past President, Colorado Horsemen's Council

cc Dave Campbell
Connie Diedrichs
Bette Heller

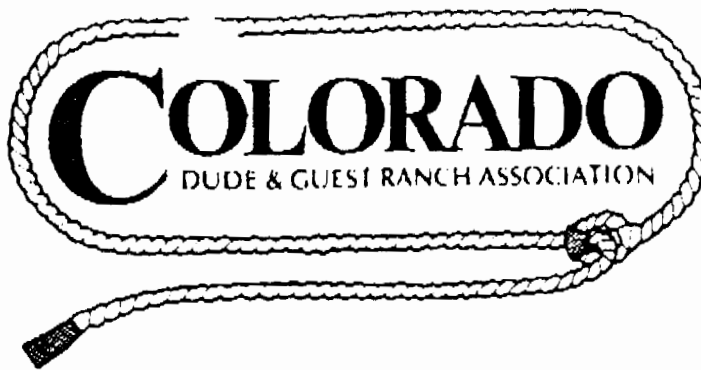


EXHIBIT 12 (m)
DATE 3-2-93
SB 140

January 15, 1993

Mrs. Ellen Hargraves
Montana Horse Council
Box 5233
Helena, MT 59604

Fax #: 406-443-7322

Dear Mrs. Hargraves:

Several lawsuits were threatened but were never filed. We believe this occurred because the lawyers became aware of Colorado Senate Bill 84 and determined they were either frivolous or unwarranted. SB84 has provided some much needed protection for the fine guest ranches in Colorado.

Sincerely,

Wright M. Catlow
Executive Director
Colorado Dude and Guest Ranch Association

WMC:dlo

EXHIBIT 12(n)
DATE 3-2-93
SB 140

Hoiness LaBar Insurance, Inc.

2323 2ND AVENUE NORTH - P.O. BOX 30638

BILLINGS, MT 59107-0638

(406) 245-6511 - FAX (406) 245-9887

January 15, 1993

Senate Judiciary Committee
Legislature of The State of Montana
Helena, MT 59601

RE: Bill #LC19

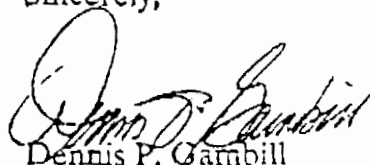
Gentlemen:

I have reviewed the draft copy of Bill #LC 19. "An Act limiting tort liability for equine activity sponsors and equine professionals."

Passage of this bill will certainly allow for broader availability of proper insurance coverage and more realistic costs for those involved in equine activities and equine professionals. Please give your support to passage of Bill #LC19.

Thank you.

Sincerely,



Dennis P. Gambill
Regional Bond Administrator/
Account Executive

DPG/df

EXH.B11 12 (0)
DATE 3-2-93
SB 140

January 15, 1993

Mr. Robert Schaap
Lone Mountain Ranch
North Forkland Road
BIG SKY MT 59716

RE: EQUINE ACTIVITIES - LEGISLATIVE DECLARATION - EXEMPTION FROM
CIVIL LIABILITY

Dear Bob:

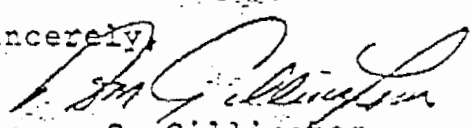
Gillingham & Associates, Inc. has recently completed a liability insurance program for outfitters, guides and dude ranches, kicking off in thirteen states February 1st. The insurance company providing coverage is the Gulf Insurance Company, Best rated A+8 and in terms of size, one of the top 25 insurance companies in the U.S.

Designing a specialty insurance program for your industry has taken nine months and hundreds of man hours. The research involved was extensive. As you have experienced, insurance companies are not standing in line to underwrite equine activities. I have interviewed several hundred outfitters, guides and dude ranch owners, and have heard the same statement as many times: "When you put a green rider on a 1200 pound animal that by its very nature is a flight animal in lieu of a fight animal, accidents can and will occur. The majority of accidents are not a result of negligence but of circumstances that may cause the animal to react in such a way to injure its rider."

Several states have passed laws limiting liability related to equine activities. The Colorado law has resulted in the reduction of insurance rates for outfitters, guides and dude ranches in Colorado and has increased the availability of coverage in Colorado. When I underwrite an identical risk in Colorado verses Montana, it goes without saying that I prefer the Colorado risk and will offer better terms, conditions and rates as a result of the new Colorado law.

As a Program Manager, underwriting equine activities on behalf of insurance company, I can factually state that a law such as Colorado 13-21-117, introduced to Montana, will reduce insurance rates and increase the number of insurance companies competing for your and your industries business.

Sincerely,


Thomas S. Gillingham

TSG:mcw

EXHIBIT 12(p)
DATE 3-2-93
SB 140

I would like to speak in favor of bill #LC19 which is "An act limiting tort liability for equine activity sponsors and equine professionals."

I represent the Diamond N Ranch and the Rocky Mountain Equestrian Center. Our facility is the designated location for the Rocky Mountain College Equestrian Program as well as a private training business. In addition we sponsor numerous clinics, special events, summer camps, as well as a lesson program.

In the years that we have been in business, we have never had a serious accident with any of our programs. The horses that are used in the various programs at the ranch are screened very carefully, but equally as important are the caliber of our instructors.

We searched for almost two years to find an affordable insurance policy that would cover the clinics, special events, summer camps and our lesson program. Rates that we were quoted for our activities ranged from \$7000.00-\$20,000.00 for a yearly premium.

Many small equine professionals operate without adequate insurance simply because they cannot afford the premiums. This does not protect either the professional or the general public.

There are inherent risks involved in riding horses as well as working around them. LC #19 defines the fact that "there are dangers or conditions that are an integral part of equine activities and defines those conditions." Perhaps even more importantly, this bill has a provision that specifically allows the participant in an equine activity adequate recourse if the activity sponsor or professional has been negligent and again defines those conditions. It is my feeling that LC#19 protects both the consumer and the equine professional.

Montana is truly the "Last Best Place", and horses are part of that mystique. It is my feeling that LC#19 is a tremendous benefit for the equine industry in Montana. I urge you to think positively and vote "yes" for this bill. The states of Virginia, Tennessee, Colorado, Oregon, Wisconsin are part of a group of states that have realized the need for this type of legislation. Montana could be seen as a leader by enacting this bill.

EXHIBIT 12(Q)
DATE 3-2-93
SB 140

January 12, 1993
Mary Legge
1523 Florence Ave.
Eau Claire, WI 54703
715-834-6641

Montana Outfitters & Guides Association
P.O.Box 9070
Helena, Montana 59604

Dear Sirs,

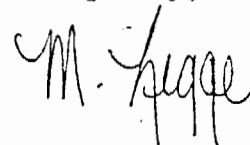
Late last fall of '92 I called and spoke with your representative looking for a Nat'l Association. She informed me that your Association is the only major functioning Association for Outfitter-Guides.

I am considering starting a non-traditional Outfitter-Guide service in Wisconsin. I will provide everything but the personal articles. This won't be a hunting trip, more of a glorified camping trip. Horses will carry the major equipment and the customer will backpack in their personal gear. It will more of a getaway/nature appreciation trip.

Please accept my check for membership in your Association. I would appreciate any information that you might feel is relevant. What I am having real problems with is insurance. The companies I've been able to locate are ones that deal with canoe and ski/resort groups. Because of this I am having difficulty getting my horses and their horse related problems insured. How are your members covered? Do you have any insurance companies that you'd recommend? Thank you for your time and consideration.

Sincerely,

Mary Legge





STAN STEPHENS
GOVERNOR

STATE OF MONTANA
DEPARTMENT OF AGRICULTURE

OFFICE OF THE DIRECTOR
AGRICULTURE/LIVESTOCK BLDG.
CAPITOL STATION
HELENA, MONTANA 59620-0201

EXHIBIT 12(r)
DATE 3-2-93
SB 140

TELEPHONE:
AREA CODE 406
444-3144

FAX 406-444-5409

EVERETT M. SNORTLAND
DIRECTOR

December 2, 1991

Leo & Ellen Hargrave
Hargrave Cattle & Guest Ranch
Thompson River Valley
Marion, MT 59925

Dear Mr. & Mrs. Hargrave:

In response to your letter addressing the need for "individual assumption of risk" legislation for Montana, we couldn't agree with you more. This is an issue that deserves consideration by Montana's next legislative session.

I encourage you to continue to work with your local legislators to introduce a bill to the 53rd Legislative Assembly. This would be the most effective means to get this type of legislation passed. We in turn will work with those legislator for appropriate legislation.

Another suggestion is to work through your contacts in the insurance profession. Their industry has an organized effort to introduce and promote legislative issues, and may be helpful.

The involvement of operators such as yourself is a key element in motivating your legislators to address this issue. This issue encompasses much more than agricultural concerns.

Thank you for participating in Montana AgTours. If we can be of further assistance to you through any of our other programs, please let us know.

Sincerely,

E. M. Snortland
Director

124

To Whom It May Concern Jan 14 1992

This Letter is in Regards to S.B. 140
(The Horsemans Safely Act). I Support The
Bill, I have Been a Full Time Farrier in
the Great Falls Area for 23 years. I
am President of the Montana Professional
Horseshoers ASSN. inc. and am on the
Board of Directors of the American Farriers
ASSN. of which we are a Chapter Member

I have been in contact with the
membership of the M.P.H.A. and we as a
Professional Organization Support this
Bill as it has been written.

Sincerely

Steve Eastman
President M.P.H.A. inc

Montana Professional
Horseshoers Assn. Inc.
32 Windsor Lane
Great Falls, MT 59404

EXHIBIT 12(+)
DATE 3-2-93
SB 140

7125 Highway 3 N
Billings, MT 59106
January 16, 1993

To Whom It May Concern:

As President of the Montana Quarter Horse Association, I represent approximately 17,000 households throughout our state who own nearly 90,000 American Quarter Horses. These people participate in a variety of activities involving horses. The range of equine usage in Montana includes: competitive trail riding, 4-H (the horse and related topics is the most popular 4-H project in the United States), high school rodeo, dude ranches, hunting pack trips, polo, racing, breeding, horse showing, ranching, barrel racing, cutting, dressage, roping, combined training and team penning.

The passage of Bill LC 0019 would benefit all of our state's equine participants by defining the risks involved when participating in horse activities and by also better defining the horseman's level of responsibility in case of accident or injury. The professionals and facilities offering our citizens and Montana's visitors the opportunity to enjoy the variety of horse activities provided here will also greatly benefit from this bill because it assists in stemming the constant escalation of liability insurance rates and the filing of nuisance suits.

Without this type of legislation being enacted in Montana's behalf, the thousands of people who enjoy horses throughout this state lack a reasonable definition of what constitutes prudent effort when enjoying and participating in equine activities. This legislation will also better define each citizen's responsibility both to himself and to others.

Sincerely,

William C. Bormes, President

124

" No mo. disabled folks ridin' and smilin'

EXHIBIT 12 (u)
DATE 3-2-93
SB 140

Backcountry Horsemen - Missoula Chapter
Disabled Rides Project Cancelled

Summitt is an organization that has a program called 'Mountain Dog' where the disabled feel the exhilaration of a ski slope or the back of a horse - with the help of special friends.

In 1987 the Missoula Chapter of the Backcountry Horsemen started taking these people out of their wheel chairs & onto a horse for a few brief minutes a week. Here's the story as told by Gwen Thibodeau who was one of these special volunteers.

"We would go to a small community arena and let them ride. They'd sit on the horse while we lead them. For the ones that couldn't move their legs there would be a side walker on each side of the person. Sometimes we did "exercises" done by disabled professionals , such as 'touch the head now' or 'touch the tail'.

"It was one night a week for 20-25 different people. It was really appreciated by the folks who participated. We did it for about 4 years, probably serviced about 50-60 different people.

"When we first started working with them we were under the insurance policy of the Community Hospital, then couple years down the road- we were no longer covered under the Community umbrella. A lawyer told us they did not have insurance that would cover us for liability."

"Our chapter discontinued the project because the Backcountry Horsemen could not afford insurance; we couldn't even find out if it was even available. "

"It was a good thing. Their eyes just lite up at this opportunity. I ran into a lady in the grocery store once and she rushed up,

"Oh, I remember you, how come you aren't doing that (horse lessons) any more? My husband enjoyed it so much."

"It was a good thing, for us all."

Gwen Thibodeau
1850 Marshall Canyon Road
Missoula, Mt 59802

Montana Horse Council
PO Box 5233
Helena, Montana

To whom it may concern:

I am writing to discuss the rationale behind the successful passage of the Equine Liability Bill in Oregon.

As chair of the Oregon Horsemen's Association's Legislative Committee, I was pleased to play a role in the passing of HB2650 in 1991.

Our committee was struck by the fact that Oregon's Horsemen had reached a crisis state when it came to obtaining liability insurance. From 4H to backyard horse shows to breeders, to trainers and casual horsemen, the message was the same: Average people couldn't get or couldn't afford liability insurance.

Because there was no limit on the degree of liability on horse related accidents in this state, insurance companies were bailing out of touching anything related to horses. Many horse owners thought they were covered under "Homeowners", until they had a claim. A common scenario was to have the agent come out and check for increased evaluation of a clients holdings and see a horse on the property. Within a few days a cancellation notice would arrive with no accident or claim ever had occurred.

As a result of the limited options for insurance and the exorbitant prices, under which it could sometimes still be obtained horse enthusiasts either folded their horse operation or ran bare.

With prices quoted as high as \$500 for one day "special event" insurance, little shows and exhibitions often calculated that they wouldn't even make \$500 in profits and couldn't come close to cost/benefits balance. The results were very bad news for the horse industry in Oregon- An industry conservatively estimated to be worth at least \$7,000,000.

Our committee, in concert with a couple of other very helpful groups, began blitzing the horse community and, related businesses with letters proposing a change and asking for support of a Inherent Risk Insurance Bill.

The Bill was drafted by a local lawyer/horseman and the speaker of the Oregon House was approached to act as its sponsor.

Ultimately four letters were sent to a total of 12,000 households. These letters called for financial help to hire a lobbyist and pay for

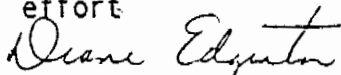
printing, as well as letters and phone calls campaigns timed at critical intervals in the Bill's lifetime.

Phone trees advised people of hearing dates and hearing rooms were filled to overflowing with interested horse folks.

When the Bill reached an impass, persons who could influence further progress were contacted by at least a hundred constituents urging forward motion.

In the fall of 1991, Governor Roberts signed the Bill into law. Thus insuring that those who put themselves in close proximity with these big animals take a greater responsibility for their action and possible injury. Asking the courts to apply the concept of inherent risk when they decide an award in horse related cases, should substantially reduce the size and incidence of these awards. Ultimately it is believed that our work will be rewarded by insurance companies realizing that they can now afford to write horse policies again and at an affordable cost. We await testing in court to make this a reality.

Good luck on your
effort



Diane Edgington
Oregon Horsemen's
Legislative Chairman

Understanding Oregon's Horse Bill

HB 2650 is explained in laymen's terms

*By Lee D. Kersten
Attorney at Law*

A

fter tremendous work by many individuals and groups, HB 2650 — The Horse Bill — passed the Oregon House of Representatives, the Oregon Senate and was signed by Governor Barbara Roberts on Aug. 6, 1991.

The final bill, a product of much negotiation and compromise, does not look much like the original bill introduced in the House at the request of the Horse Council of Oregon. However, it still contains most of the initial concepts.

The bill is divided into seven sections. This article will explain each of those sections:

Section 1

The first section states the purpose of the bill and provides for certain state policies relating to horses and liability. It provides that the purpose of the bill is "... to assist courts and juries in defining the circumstances under which those persons responsible for equines may and may not be liable for damages to other persons harmed in the course of equine activities."

This section also provides for inherent risk protection which means there is no

liability when damage is caused solely as a result of inherent risk. The Act provides for three separate situations where inherent risk protection will apply. They are where the inherent risk is: (1) reasonably obvious, (2) expected, or (3) necessary to the person injured.

This language reflects the agreement that in order to be an inherent risk, the risk must be one which is generally known. The statutory language requires that the risk be reasonably obvious, expected, or necessary to the person injured. Thus, the horse owner's knowledge is not relevant. This means that the more horse experience the participant has, the more risks should be held to be inherently obvious.

On the other hand, someone with a mental impairment or no exposure to horses may not have a good understanding of what risks are reasonably obvious and would not be precluded by the reasonably obvious language from suing for damage caused by an inherent risk.

Protection is provided in these situations by the use of the phrase "necessary to the person injured." This phrase would cover someone who has insufficient horse

experience to recognize risks which should be reasonably obvious but who engages in a horse activity which creates risks which are necessary to the person injured. An example of this would be someone with no horse experience who rents a horse to ride in an arena, whose horse stumbles, and is therefore injured. While the injured person had insufficient knowledge to expect that stumbling is a reasonably obvious risk, it was necessary for the participant to ride in the arena and thus the protection of the Act should apply.

The last subsection of section 1 provides that persons responsible for equines, or responsible for the safety of those persons engaged in equine activities, will still be liable if they are negligent and cause a foreseeable injury. For example, if you

relating to rides, trips, hunts, or other equine activities of any type, however informal or impromptu.

There was concern during negotiation of this aspect of the Act that protection be extended to all equine owners, not just equine professionals and professional activity sponsors such as are protected in the Colorado bill. When subsections (2) (c) and (3) of section 2 are combined, then the protection of the Act extends to individuals engaging in equine activities of any type however informal or impromptu.

Subsection (4) defines equine professional as someone who for compensation is instructing, or renting horses, equipment or tack to a participant.

Subsection (5) defines participant. Participant includes both amateurs and

bill not apply to any injury or death arising out of a race as defined in ORS 462.010. This is accomplished by subsection (2) (a). This exception applies only to mutual racing, such as Portland Meadows.

The protection of the bill will not be available if there is a willful or wanton disregard for the safety of the participant and such disregard caused the injury. This is sometimes called "gross negligence."

The protection will not apply if there is an intentional injury to the participant.

The protection will not apply under the product liability provisions in Oregon statutes. Thus, manufacturers, distributors, sellers, or lessors of a product will have their liability for defective products determined under existing law.

The protection will not apply to the sale of a drugged horse.

Section 4

This section contains three more exceptions to the liability protection. The first exception is for persons who provide tack or equipment, fail to reasonably and prudently inspect the tack or equipment, and the tack or equipment is a cause of the injury. To obtain protection when you are providing tack or equipment be sure you reasonably and prudently inspect your tack and equipment.

Liability protection is not available when you provide the equine and you fail to make reasonable and prudent efforts to determine the ability of the participant to safely ride, or safely manage the equine, or to determine the ability of the equine to behave safely with the participant.

Generally, this requires that you make some effort to match the horse to the rider. If you reasonably inquire as to the participant's ability, know the behavioral characteristics of your animals, and match the two accordingly, you should be protected under the bill.

Another exception to protection under the bill is if you control the land or facilities upon which the participant sustained injuries and the injuries were caused because of a dangerous hidden condition which was known or should have been known to you and for which you did not conspicuously post warning signs. For example, if you know the rails on the end of your arena are rotten, you need to fix them. In the interim, you need to post a sign on them warning that they may present a danger. This provision follows existing law where land owners are required to warn about or make safe hidden dangerous conditions on their land.

Section 5

This section provides protection for veterinarians and farmers. It was originally deleted when the bill went to the Senate but was able to be restored during negotiations. It provides that veterinarians and farmers may have people assisting them sign a release waiving their right to sue for injury or death. This protection will not extend to gross negligence or intentional misconduct, but will protect against inherent risks and mere negligence.

Section 6

This section of the bill makes it clear that it will not affect any person's right to

workers' compensation benefits.

Section 7

This section provides that it will become effective for accidents occurring on or after the effective date of the Act.

In summary

The bill contains many important protections for horse people. Unlike the Colorado bill, it is not restricted to professionals. Unlike the Washington bill, it contains an inherent risk provision.

It also provides that releases may be obtained and that they are valid. This is an important feature. Persons engaging in equine activities which are repetitive in nature — such as riding lessons, boarding, show sponsors — should obtain a release suitable for continuing use. All others should consider the protection afforded by releases and determine if they are appropriate for use.

No one should relax their safety precautions because of the bill. Prevention is still better than cure. However, those who do use care in their equine activities should experience significant protection in the event an accident should occur.

Those who have had problems with exclusions or unavailability of insurance should contact their insurance agent once the bill is enacted as major insurers have indicated the bill will favorably impact their underwriting.

Thanks to all the persons and groups who worked on the bill, Oregon horse people now have a way to address equine insurance problems and liability concerns. Take advantage of your rights by using releases and acting safely and responsibly.

About the author

Lee D. Kersten is an Eugene attorney specializing in agricultural, taxation and business law practice. His practice provides the variety of legal services required by businesses and individuals engaged in transactions, especially those involving agricultural operations. Kersten, who is certified to practice law in Oregon and California as well as the federal court system, has an MBA Agribusiness degree.

Kersten was very instrumental in securing passage of HB 2650. He testified at the first hearing before the House Judiciary Civil Law Subcommittee. Later, he made numerous trips to Salem, without compensation, to negotiate changes in the bill in order to secure its hearing by the Senate Judiciary Committee.

Individuals, businesses and organizations that would like a liability waiver written for their use to comply with provisions of the bill are urged to contact Kersten. His knowledge of HB 2650 will facilitate that process.

Lee D. Kersten
260 County Club Rd., Suite 210
Eugene, OR 97401
Phone (503) 345-4312
Fax (503) 345-7027

No one should relax
their safety precautions
because of the bill.
Prevention is still better
than cure.

walk a group of school children directly behind a long line of mares in heat, you will probably be liable if one of the mares kicks a child. Although a kick is an inherent risk, it is unreasonable to walk a group of children immediately behind a long line of mares in heat.

Section 2

This section provides definitions for the remaining liability sections of the Act. Subsection 1 defines equine.

Subsection 2 defines equine activity. Equine activity includes shows, fairs, competitions, performances, parades, any of the equine disciplines, training, grooming, teaching, boarding, riding and inspecting or evaluating an equine belonging to another. Importantly, it also includes rides, trips, hunts or other equine activities of any type however informal or impromptu that are sponsored by an equine activity sponsor. This is an important definition because when combined with the definition of equine activity sponsor, it extends the protection of the Act to individuals.

Subsection (3) defines equine activity sponsor. This definition includes those that would commonly be expected such as stables, arenas, 4-H clubs, riding clubs, etc. However, it also includes "an individual." Inclusion of the word individual is important because it relates to the definition of equine activity in subsection (2) (c)

professionals. However, participant does not include a person who is purely a spectator. Substantial negotiation occurred over this definition. The original House bill included spectators as participants. This was deleted when the bill was worked on in the Senate Judiciary Committee. An attempt was made to redefine spectator to differentiate between "active" and "passive" spectators. However, this differentiation was not able to be placed in the final version of the bill. Thus, spectators should be required to remain in areas in which their safety can be ensured. If a spectator is injured in an equine activity, general rules of negligence will apply rather than HB 2650.

Section 3

This section contains the other important limitation of liability provisions. It provides that, except as set out below, an equine activity sponsor (remember that as discussed above this phrase includes an individual) or an equine professional shall not be liable for injury or death of a participant arising out of the riding, training, driving, grooming or riding as a passenger on an equine. This is the heart of the Act as it provides for this protection ("...shall not be liable...") in all but a few excepted situations.

Due to technical reasons, the racing industry requested that the provisions of this

DEPARTMENT OF LIVESTOCK

EXHIBIT 12 (w)
DATE 3-2-93
SB 140



MARC RACICOT, GOVERNOR

PO BOX 202001

STATE OF MONTANA

BRANDS ENFORCEMENT DIV 406-444-2045
ANIMAL HEALTH DIV 406-444-2043
BOARD OF LIVESTOCK - CENTRALIZED SERVICES 406-444-2023
MEAT, MILK & EGG INSPECTION DIV 406-444-5202

HELENA, MONTANA 59620-2001

January 14, 1993

TO: Ellen Hargrove
FROM:  Jack Sedgwick, Administrator
Brands Enforcement Division
Montana Department of Livestock
RE: Information on horses

As per our phone conversation of January 14, 1993. The Montana Department of Livestock collected per capita taxes on 67,369 head of horses at \$1.58 per head in the calendar year of 1991.

During the calendar year of 1991, there were 9765 horses through our livestock auctions in Montana.

During the calendar year of 1991 there were 35,282 horses brand inspected in the State of Montana.

Enclosed are the counties and the number of horses inspected which may give some indication as to the area with the larger populations.

132

TOTAL HORSE INSPECTIONS FOR 19

HORSE

Beaverhead	825
Big Horn	925
Blaine	554
Broadwater	280
Carbon	1,200
Carter	452
Cascade	2,075
Chouteau	490
Custer	557
Daniels	78
Dawson	296
Deer Lodge	119
Fallon	445
Fergus	684
Flathead	925
Gallatin	1,520
Garfield	311
Glacier	1,384
Golden Valley	93
Granite	157
Hill	684
Jefferson	418
Judith Basin	313
Lake	1,403
Lewis & Clark	928
Liberty	106
Lincoln	209
Madison	828
McCone	217
Meagher	194
Mineral	107
Missoula	1,324
Musselshell	362
Park	876
Petroleum	155
Phillips	289
Pondera	626
Powder River	444
Powell	376
Prairie	140
Ravalli	1,361
Richland	202
Roosevelt	545
Rosebud	527
Sanders	222
Sheridan	341
SilverBow	209
Stillwater	833
Sweetgrass	484
Teton	848
Toole	3,456
Treasure	105
Valley	255
Wheatland	201
Wibaux	411
Yellowstone	<u>1,913</u>

TOTALS

35,282



Information Service

THE FACTS SPEAK FOR THEMSELVES

Agriculture is the nation's largest industry, with assets totaling approximately \$1 trillion. Assets in the agriculture sector of the economy are equal to about 70% of the capital assets of all manufacturing corporations in the United States.

The equine community is a large and viable part of America's agriculture. Horses are a \$15.2 billion industry. This is approximately 16% of the gross national product (GNP) of the Agriculture Forestry and Fisheries section of the U.S. economy. In comparison with specific sectors of the manufacturing sector, this industry is 83% of the GNP of the textile mill products sector, and 65% of the lumber and wood products sector. It equals the combined output of the tobacco and leather products industries.

According to the American Veterinary Medical Association's 1988 research study, there are 6.6 million total equine in the United States. Previously, the Economic Impact of the U.S. Horse Industry study conducted by Peat, Marwick and Mitchell and released in 1987 by the American Horse Council, stated there were 5.25 million economically productive equine.

The horse industry is made up of a diverse group of approximately 1 million owners and participants ranging from those who utilize the horse as a business and investment to those who choose to spend their leisure time riding, driving or contributing as a volunteer.

Horse owners account for roughly \$13 billion in annual investment and maintenance expenditures. This would indicate a significant contribution to the feed grain industry, and tack and equipment manufacturers and retailers.

Horse sports draw more than 110 million spectators annually. Attendance at U.S. race tracks exceeds 70 million each year and annual wagering on horse races surpasses \$13 billion.

According to the Parks and Recreation Travel Statistical Abstract-1989, produced by the United States Bureau of Census, 20.3 million people visit national parks each year with 8.5% of those participating in horseback riding. In addition, from the Third Nationwide Outdoor Recreation Plan's Demographic and Recreation Trend Analysis, out of 32 selected activities, horseback riding is 27th and shows a 15% growth trend per year.

EXHIBIT #12 (W)
DATE 3-2-93
[] SB-140

Horse exports account for foreign sales of approximately \$200 million annually.

There are 7000 sanctioned horse shows each year with thousands of local unsanctioned events. Horse shows generate \$223 million per year with rodeos contributing \$104 million.

On the state level, California's horse industry generates the most dollars with a total GNP of \$2 billion annually, followed by New York's \$1.3 billion and Texas' \$1 billion.

According to estimates established in the 1987 Economic Impact of the U.S. Horse Industry survey, Quarter Horses are the largest registered breed of horse in America with 1.8 million. In addition there are 620,000 Arabians; 535,000 Thoroughbreds; 258,000 Appaloosas; 150,000 Standardbreds; 147,000 Paints; 127,000 Morgans; 92,000 Tennessee Walking Horses; 89,000 Saddlebreds; 76,000 purebred ponies; 52,000 mules and donkeys; 23,000 Palominos; 20,000 Pintos; 15,000 Pasos; 357,000 other purebreds and 844,000 non purebred.

In 1989 there were 219,488 youths involved in horse projects through 4-H programs.

EXHIBIT 12 (X)
DATE 3-2-93
SB 140

DIAMOND N RANCH

ROCKY MOUNTAIN EQUESTRIAN CENTER

FAX 406-652-6013

BOB AND PENNI NANCE

406-656-5912 OR 406-652-7191

January 19, 1993

To WHom It May Concern:

I would like to speak in favor of bill #LC19 which is "An act limiting tort liability for equine activity sponsors and equine professionals."

I represent the Diamond N Ranch and the Rocky Mountain Equestrian Center. Our facility is the designated location for the Rocky Mountain College Equestrian Program as well as a private training business. In addition we sponsor numerous clinics, special events, summer camps, as well as a lesson program.

In the years that we have been in business, we have never had a serious accident with any of our programs. The horses that are used in the various programs at the ranch are screened very carefully, but equally as important are the caliber of our instructors.

We searched for almost two years to find an affordable insurance policy that would cover the clinics, special events, summer camps and our lesson program. Rates that we were quoted for our activities ranged from \$7000.00-\$20,000.00 for a yearly premium.

Many small equine professionals operate without adequate insurance simply because they cannot afford the premiums. This does not protect either the professional or the general public.

There are inherent risks involved in riding horses as well as working around them. LC #19 defines the fact that "there are dangers or conditions that are an integral part of equine activities and defines those conditions." Perhaps even more importantly, this bill has a provision that specifically allows the participant in an equine activity adequate recourse if the activity

sponsor or professional has been negligent and again defines those conditions. It is my feeling that LC#19 protects both the consumer and the equine professional.

Montana is truly the "Last Best Place", and horses are part of that mystique. It is my feeling that LC#19 is a tremendous benefit for the equine industry in Montana. I urge you to think positively and vote "yes" for this bill. The states of Virginia, Tennessee, Colorado, Oregon, Wisconsin are part of a group of states that have realized the need for this type of legislation. Montana could be seen as a leader by enacting this bill.

Sincerely,

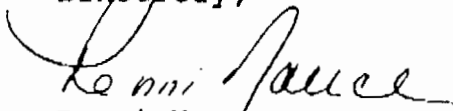

Penni Nance

EXHIBIT 12(y)
DATE 3-2-93
SB 140

To: Senator Jack Rea 1-444-3036
From: Hallie Rugheimer
Date: January 19, 1993
Re: Senate Bill 140 (Horseman's Safety Act)
Fax copies to: 1-444-4105 Attention:
Senator Eve Franklin
Senator Steve Doherty
Senator Sue Barlett
Senator Chet Blaylock
Senator Bruce Crippen

I would like to add my name to the long list of supporters for the bill being proposed through the Montana Horse Council and Montana State Legislature.

Through the bill, I feel there is protection and yet responsibility for the private horseman. At the same time it includes responsibilities of the equine business. It should make insurance more affordable for the manager of horse events and businesses. There should be an economic benefit to small businesses in the horse industry which are part of Montana's past and should be into the future.

Under the definitions section, I would add a point not covered in the original draft copy but hopefully included by the time it makes to the bill stage. A concern from us that are in the business of working with student learners and apprentices in our schools/institutes. There needs to be a different designation than "equine professional" as defined in the LC0019 (Draft) definitions, section, "a person engaged for compensation in ...". The working student/apprentice students need to have their own definition. They may not yet be compensated in the journey to being a wage earning professional. They are in the teaching arenas as student learners under the guidance of a director/overseer or master teacher. They should be gaining the status of instructor but may be limited by experience. A definition to the designation student learner/working student or apprentice student is therefore appropriate.

Antidotal testimony for Montana Horse Council

Dude Ranch: Spanish Creek Ranch
Address: Sioux Falls, Wyoming
Phone: 307/327-5241 (303/585-4195) Fax: _____
Owners: Egner Caldwell

How has horse liability legislation in your state affected you? Please provide the following as testimony for a Montana Equine Liability Bill that, simply put, says the rider has to assume an inherent risk and the horse owner must be grossly negligent to be held liable.

- A. Has your state legislation made securing insurance easier? yes___no___ not yet
- B. After your state passed horse liability legislation, did this open up more insurance markets for you? yes___no___ pending
drafted per Colorado law language
- C. Have your insurance premiums changed? Give \$ amounts if possible _____
- D. Do you have better insurance coverage now than before the legislation? yes___no___
- E. Has the legislation changed your level of safety awareness? yes___no___
- F. Does your insurance company require signed releases? yes___no___
- G. Has your Ranch atmosphere changed as a result of having added liability protection? _____
- H. Have any guest not returned as a result of the law? yes___no___
- I. Have you had any injury settlements over \$20,000. ? yes___no___ X
how many___ How many years of operations?___
- J. Have you had any nuisance threats of injury litigation? Example: (A guest wants his bill reduced due to an injury.) Approx. how many? 1 (not horse injury)
- K. What are the most positive results you have experienced from the liability law for your Ranch. What should be told to the Montana legislators. Horseback riding is inherently risky and it is possible to be injured where no negligence has occurred

Signature Ranch owner
or representative: [Signature]

Antidotal testimony for Montana Horse Council

Dude Ranch:

Address:

Phone:

Owners:

How has horse liability legislation in your state affected you? Please provide the following as testimony for a Montana Equine Liability Bill that, simply put, says the rider has to assume an inherent risk and the horse owner must be grossly negligent to be held liable.

A. Has your state legislation made securing insurance easier? yes__no ☒

B. After your state passed horse liability legislation, did this open up more insurance markets for you? yes__no ☒

C. Have your insurance premiums changed? Give \$ amounts if possible no

D. Do you have better insurance coverage now than before the legislation? yes__no ☒

E. Has the legislation changed your level of safety awareness? yes ☒ no__

F. Does your insurance company require signed releases? yes ☒ no__

G. Has your Ranch atmosphere changed as a result of having added liability protection? no

H. Have any guest not returned as a result of the law? yes__no ☒

I. Have you had any injury settlements over \$20,000. ? yes__no ☒
how many__ How many years of operations? 65

J. Have you had any nuisance threats of injury litigation? Example: (A guest wants his bill reduced due to an injury.) Approx. how many. 5-6

K. What are the most positive results you have experienced from the liability law for your Ranch. What should be told to the Montana legislators. The law has helped settle some issues in liability suits.

Signature Ranch owner
or representative:

Louise Brestach

Montana Trial Lawyers ASSOCIATION

Directors:

Wade Dahood
Director Emeritus
Monte D. Beck
Thomas J. Beers
Michael D. Cok
Michael W. Cotter
Karl J. Englund
Robert S. Fain, Jr.
Victor R. Halverson, Jr.
Gene R. Jarussi
Peter M. Meloy
John M. Morrison
Gregory S. Munro
David R. Paoli
Paul M. Warren
Michael E. Wheat

Executive Office
#1 Last Chance Gulch
Helena, Montana 59601
Tel: 443-3124

March 20, 1993

Officers:

Thomas J. Beers
President
Monte D. Beck
President-Elect
Gregory S. Munro
Vice President
Michael E. Wheat
Secretary-Treasurer
William A. Rossbach
Governor
Paul M. Warren
Governor

Rep. Russell Fagg, Chair
House Judiciary Committee
Room 325, State Capitol
Helena, MT 59624

RE: SB 140

Mr. Chair, Members of the Committee:

Thank you for this opportunity to express MTLA's opposition to SB 140, which alters the liability of equine activity sponsors and equine professionals. The Senate Judiciary Committee addressed MTLA's concerns with numerous amendments to the bill, and MTLA acknowledges the good-faith efforts by supporters of SB 140 to achieve a compromise bill agreeable to all parties. However, MTLA continues to oppose SB 140 for the following reasons:

1. MTLA believes that a bill which, consistent with the title of SB 140 (page 1, line 9), genuinely defines without limiting the liability of equine activity sponsors and equine professionals could clarify for many horse owners that they are not liable in the absence of negligence. However, MTLA believes that SB 140 as currently drafted merely invites litigation over the extent of liability, despite the insistence by proponents of SB 140 that the bill will not immunize "equine activity sponsors" and "equine professionals" from liability for negligence, and despite media reports to the same effect. (See Attachment 1) MTLA disagrees that Montana law imposes strict liability upon horse owners. And MTLA believes the following amendment to SB 140, taken verbatim from the purpose clause of the bill (page 1, lines 23-24), is essential to clarify the liability of horse owners: Page 4, line 15.

Following: "are"

Strike: "an integral part of"

Insert: "or should be reasonably obvious, expected, or necessary to persons engaged in"

141
~~141~~

2. Proponents cite similar equine immunity statutes approved by Colorado in 1990 as the model for SB 140. However, Colorado's equine-liability statutes include important notice requirements that SB 140 avoids, notice requirements designed specifically to address the same problem with "inherent risks" as MTLA's suggested amendment. (See Attachment 2)

3. Proponents cite Montana's skier-liability and snowmobiler-liability statutes as models for SB 140. However, each of those statutes imposes notice requirements that SB 140 avoids, notice requirements designed to address the same problems with "inherent risks" as MTLA's suggested amendment. (See Attachment 3) Moreover, unlike downhill skiers and snowmobilers who can exercise virtually complete self-control over the dangers inherent in a static landscape, inexperienced horseback riders and spectators encounter animals which are large, quick, and powerful.

MTLA believes that the "equine activity sponsors" and "equine professionals" insulated by SB 140 understand horses better than anyone, certainly better than most of their paying clients. Yet the bill allows them to define "risks inherent in equine activities" without a corresponding requirement that they inform their clients of those inherent risks. The bill, in essence, blurs the fundamental distinction which Colorado's equine-liability statute and Montana's skier-liability and snowmobiler-liability statutes all make between inherent risks and forseeable, avoidable risks.

MTLA readily admits that individuals in a free society are entitled to make decisions for themselves and to willingly, knowingly accept the risks of dangerous behavior. MTLA believes, however, that existing Montana law protects that right and the consequences that flow from that right better than SB 140 does unless the bill includes an amended definition of "risks inherent in equine activities" or unless it imposes notice requirements on Montana horse owners.

Thank you for considering these comments. If I can provide additional information or assistance, please notify me.

Respectfully,



Russell B. Hill
Executive Director

ATTACHMENT 1

Proponents and perhaps the general public apparently assume that horse owners are now strictly liable for injuries caused by their horses and should be liable only when they are at fault:

* Bob Schaap, owner of Lone Mountain Ranch at Big Sky, testified as a proponent of SB 140 that, "Right now, falling off a horse in Montana is like winning a lottery." Schaap also testified that he's been sued only once in 16 years, and his insurance company paid nearly \$27,000 "when there was no negligence."

* SB 140 makes "horse riders liable for their own injuries unless there was negligence on the part of the provider" (Helena Independent Record, January 21, 1993);

* Under SB 140, "a rider injured by someone else's horse can collect damages only if the horse owner acts negligently" (Great Falls Tribune, January 21, 1993);

ATTACHMENT 2

"(5)(a) Every equine professional shall post and maintain signs which contain the warning notice specified in paragraph (b) of this subsection (5). Such signs shall be placed in a clearly visible location on or near stables, corrals, or arenas where the equine professional conducts equine activities if such stables, corrals, or arenas are owned, managed, or controlled by the equine professional. The warning notice specified in paragraph (b) of this subsection (5) shall appear on the sign in black letters, with each letter to be a minimum of one inch in height. Every written contract entered into by an equine professional for the providing of professional services, instruction, or the rental of equipment or tack or an equine to a participant, whether or not the contract involves equine activities on or off the location or site of the equine professional's business, shall contain in clearly readable print the warning notice specified in paragraph (b) of this subsection (5).

(b) The signs and contracts described in paragraph (a) of this subsection (5) shall contain the following warning notice:

WARNING

Under Colorado Law, an equine professional is not liable for an injury to or the death of a participant in equine activities resulting from the inherent risks of equine activities, pursuant to section 13-21-120, Colorado Revised Statutes."

ATTACHMENT 3

"23-2-733. Duties of operator regarding ski areas. Consistent with the duty of reasonable care owed by a ski area operator to a skier, a ski area operator shall:

- (1) mark all trail grooming vehicles by furnishing the vehicles with flashing or rotating lights that must be in operation whenever the vehicles are working or are in movement in the ski area;
- (2) mark with a visible sign or other warning implement the location of any hydrant or similar equipment used in snowmaking operations and located on ski trails;
- (3) maintain one or more trail boards at prominent locations at each ski area displaying that area's network of ski trails and the relative degree of difficulty of the ski trails at that area;
- (4) post a notice requiring the use of ski-retention devices;
- (5) designate at the start of each day, by trail board or otherwise, which trails are open or closed and amend those designations as openings and closures occur during the day;
- (6) post in a conspicuous location the skier responsibility code that is published by the national ski areas association and that is current on April 4, 1989; and
- (7) post a copy of 23-2-736 in a conspicuous location."

"23-2-736. Skier's conduct--inherent risks. (1) A skier has the duty to conduct himself at all times so that he avoids injury to himself and others and to be aware of the inherent risks of the sport.

- (2) A skier:
 - (a) must know the range of his ability and safely conduct himself within the limits of that ability and his equipment so as to negotiate any section of terrain or ski trail safely and without injury or damage. A skier must know that his ability may vary because of trail changes caused by weather, grooming changes, or skier use.
 - (b) shall maintain control of speed and course so as to prevent injury to himself or others;
 - (c) must abide by the requirements of the skier responsibility code that is published by the national ski areas association and that is current on April 4, 1989; and
 - (d) shall obey all posted or other warnings and instructions of the ski area operator.

(4) A skier must accept all legal responsibility for injury or damage of any kind to the extent that the injury or damage results from risks inherent in the sport of skiing. Risks inherent in the sport of skiing are:

- (a) variations in skiing terrain, including surface and subsurface snow or ice conditions naturally occurring or resulting from weather changes, skier use, or grooming or snowmaking operations;
- (b) bare spots and thin snow cover caused by limited snowfall, melting, wind erosion, skier action, grooming, or unconsolidated base;
- (c) forest growth on designated trails;
- (d) skiing in an area not designated as a ski trail;
- (e) clearly visible or plainly marked improvements or equipment;

(f) clearly visible or plainly marked mobile equipment and attachments, whether moving or stationary, used by the ski area operator; and

(g) avalanches, except on open, designated ski trails." [emphasis added]

"23-2-651. **Purpose.** The legislature recognizes that there are inherent risks in the sport of snowmobiling that are essentially impossible for a snowmobile area operator to eliminate but that should be known by a reasonable and prudent snowmobiler. . . ."

"23-2-653. **Snowmobile area operators--duties--restriction on liability.** (1) The person responsible for the maintenance of or operation of a snowmobile area shall mark all trail maintenance vehicles and furnish the vehicles with flashing or rotating lights that must be in operation whenever the vehicles are working or are in movement in the snowmobile area."

"23-2-654. **Snowmobiler's assumption of responsibility--duties.** (1) A snowmobiler assumes the risk and all legal responsibility for death or injury to himself or other persons or property that results from the risks inherent in the sport of snowmobiling. The assumption of the risk includes but is not limited to death or injury caused by the following: variations in terrain, surface or subsurface snow or ice conditions, cornices, avalanches, poor visibility, bare spots, rocks, trees, other forms of forest growth or debris, and plainly marked trail maintenance equipment." [emphasis added]

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

BILL NO.

SB 140

COMMITTEE

DATE March 2, 1993 SPONSOR(S)

J. Rea

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Pamela Barrows	Self	X	
Jim Gundersen	Self	X	
Russell B Hill	Mont Trial Lawyers		✓
Carol Torgerson	Montana Stockgrowers Montana Wool Growers	X	
DAN RITTER	MT CHAMBER	X	
JAMIE DODGETT	Latigo Rural Develop Comm	X	
LAURENCE PETERSEN	Self	X	
Ron Hanson	Self	X	
Gail Brockbank	Dist of Commerce	X	
Michael A. Wagner	Hyland-Walker Ranch	X	
Sharon Smith	Self	X	
Kerry Holmquist	Page MT	X	
Kate F. Di	Self	X	
Erin Dennis	Kids	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Judiciary

COMMITTEE

BILL NO.

SB 140

DATE March 7, 1993

SPONSOR(S)

J. Rea

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
MYNIA OHOLT-MASON	SDAVIST- TEN MILE DRIVERS	X	
REGINA DIROSTKO	SELF		
Bird Gillotts	Mt Horse Council	X	
MARCY SCHOTTLER	(MSHSA) MT Horse Council	X	
Doug Hammill, Whitefish	Self, Other Horse Owners, Old West Adventures Big Mountain Resort	X	
Ann Walker-Tolor, Helena	Early Dawn Ranch	X	
Molly Ferrie, Helena		X	
Karen Post Bellings	Amalgamation	X	
John Frank		X	
Roger Tippy	Mt Veterinary Medicine Assn.	X	
Don Umberger	MT Prime Ranch	X	
Jay Straff			
Kelly Thomas	Ranches	X	
Deborah Warner	Ranches MHC	X	

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HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Judiciary

COMMITTEE

BILL NO.

SB 140

DATE March 2, 1993

SPONSOR(S)

J. Rea

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Barry S. Stodard St route Box 32 Conrad, MT 59425	Montana Farmers Union		
Leila Brown Box 31 Geraldine, MT 59446	Montana Farmers Union		
Dena Protsman Geraldine MT 59446	Montana Farmers Union		
Jane Johnson Brady MT 59416	Montana Farmers Union		
Christina Martinez Geraldine MT 59446	Montana Farmers Union		
Nadine Thinele Conrad MT 59425	Montana Farmers Union		
~~Ben Peterson~~ Ben Peterson Box 8 Judith Gap, MT 59453	Montana Farmers Union		

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HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Judiciary COMMITTEE BILL NO. SB 140
DATE March 2, 1993 SPONSOR(S) J. Rea

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Annie Reid #31 Bridge View Trl. Bozeman	Self	✓	
LARRY BAILEY 1400 Story Mill Rd. Boz	Institute For Equestrian Education	✓	
Kiz Gulliam 27901 Norris Rd #59 Bozeman, MT 59715	Self	✓	
Hallie Rughzimer	Institute for Equestrian educ. 1400 Story Mill Rd.	✓	
R.D. (Denny) IRWIN 2717 Good L. Hill Rd. Bozeman, MT 59715	SELF	✓	
HELEN PILCHER - HELEN	Self	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
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HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Judiciary
DATE March 2, 1993

COMMITTEE

BILL NO.

SB 140

SPONSOR(S)

J. Rea

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Leslie Armstrong BZN	Fly D & Self	X	
Rusty Hebel Encis	mt. Graham & Mule Ass	X	
LOUIS VERO GREENOUGH	E BAR L RANCH	X	
Allan Lion	Gallatin Saddles & Harness CLUB	X	
DAVE ADNER FARMER	MILL CREEK STABLES	X	
Wendy Annen Fair	Wendy Annen Fair	X	
Dan Conter	Conter Stables and Ranch	X	
Bill Maloit	Back Country Horsemen of Montana	X	
Bonnie J. Morgan	Ten Mile Drivers	X	
Betty G. Eschenburg	" " "	X	
Pat Melby	Mont. Horse Council	✓	
DOUG AVERILL	FLATHEAD LAKE LODGE	✓	
KEVIN BARROWS	"		
Shirley McGowan	Helena Valley	✓	

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HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Judiciary COMMITTEE BILL NO. SB 140
DATE March 2, 1993 SPONSOR(S) J. Rea

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
SB Lias 1120 mill Rd Helena	Ten mile Drivers	✓	
John Patricia Muhl	Ten Mile Drivers ✓	✓	
George & Dorothy Miller	Absaroke Mt.	✓	
Abbie Jackson	Columbus mt	✓	
Harold Adams	Ten Mile Drivers	✓	
Ron Pace	Helena Trail Riders	✓	
† Cynthia Graham	Columbus mt 59019	✓	
Daniel V. Collings	Ten mile Drivers Helena MT.	✓	
Honnie M. Collings	Ten mile Drivers Helena MT.	✓	
Shirley Beames 601 E 12th St. Helena MT.	Helena MT. Horseback Riders	✓	
Shirley Lyttle	Self	✓	
Gertrude Lorchach	Self	✓	
Kes Graham	Self + Mont Bodmo ASSN	✓	
Bob Schaefer	Low Mtn Ranch	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
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HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Judiciary COMMITTEE Rea BILL NO. SB 140
DATE March 2, 1993 SPONSOR(S) _____

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Sandy Janowski	myself & daughter	✓	
Russ Ritter	Wash Corp	✓	
Tim Sayles	H.D. #61	✓	
Tracee Pabich			
Mike Foster	HD 32	✓	
Liz Smith	HD 48	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN RUSSELL FAGG**, on March 3, 1993, at 9:00 a.m.

ROLL CALL

Members Present:

Rep. Russ Fagg, Chairman (R)
Rep. Randy Vogel, Vice Chairman (R)
Rep. Dave Brown, Vice Chairman (D)
Rep. Ellen Bergman (R)
Rep. Jody Bird (D)
Rep. Vivian Brooke (D)
Rep. Bob Clark (R)
Rep. Duane Grimes (R)
Rep. Scott McCulloch (D)
Rep. Jim Rice (R)
Rep. Angela Russell (D)
Rep. Tim Sayles (R)
Rep. Liz Smith (R)
Rep. Bill Tash (R)
Rep. Howard Toole (D)
Rep. Tim Whalen (D)
Rep. Karyl Winslow (R)
Rep. Diana Wyatt (D)

Members Excused: None

Members Absent: None

Staff Present: John MacMaster, Legislative Council
Beth Miksche, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 109, SB 125, SB 108
Executive Action: SB 109, SB 140, SB 108, SB 78

HEARING ON SB 109

Opening Statement by Sponsor:

SEN. STEVE DOHERTY, Senate District 20, Great Falls, said this bill is an act expanding the definition of "serious bodily

EXECUTIVE ACTION ON SB 109

Motion/Vote: REP. WHALEN MOVED SB 109 BE CONCURRED IN. Motion carried unanimously.

EXECUTIVE ACTION ON SB 140

Motion: REP. CLARK MOVED SB 140 BE CONCURRED IN.

Discussion:

Motion/Vote: REP. WHALEN moved an amendment which would require the posting of a warning sign that liability would be on horse riders and not the owners. Amendment failed 16-2 with REPS. RUSSELL and WHALEN voting yes.

Motion/Vote: REP. TOOLE moved an amendment that horse riders understand the risks involved with riding horses. Amendment failed 13-5 with REPS. BROWN, RUSSELL, TOOLE, WHALEN, and WYATT voting yes.

Vote: SB 140 BE CONCURRED IN. Motion carried 16-2 with REPS. TOOLE and WHALEN voting no.

EXECUTIVE ACTION ON SB 108

Motion: REP. WHALEN MOVED SB 108 BE CONCURRED IN.

Motion: REP. WINSLOW proposed an amendment on page 2, line 12, to say, "If a youth is not found in a youth court of criminal proceeding to have committed an act that would be a felony if committed by an adult, each law enforcement agency holding fingerprint and photographs or copies of them must destroy them."

Discussion:

REP. MCCULLOCH thought fingerprints were already on file, and he asked if REP. WINSLOW wanted those destroyed as well. It was not REP. WINSLOW'S intent; this would only apply to future action.

CHAIRMAN FAGG said he would vote against the amendment because Montana has a difficult time getting a handle on its increasing amount of crime. If the state wants to control this crime, then automatically making those fingerprints disappear would be a step backwards.

REP. VOGEL said that, when a juvenile enters the court system and is fingerprinted, he/she usually has an attorney on felony cases in youth court or before a youth court judge. He encouraged the committee to vote against the amendment and vote for the bill.

Vote: REP. WINSLOW'S amendment failed on a vote of 9-9.

HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL

DATE

3-3-93

NAME	PRESENT	ABSENT	EXCUSED
Rep. Russ Fagg, Chairman	✓		
Rep. Randy Vogel, Vice-Chair	✓		
Rep. Dave Brown, Vice-Chair	✓		
Rep. Jodi Bird	✓		
Rep. Ellen Bergman	✓		
Rep. Vivian Brooke	✓		
Rep. Bob Clark	✓		
Rep. Duane Grimes	✓		
Rep. Scott McCulloch	✓		
Rep. Jim Rice	✓		
Rep. Angela Russell	✓		
Rep. Tim Savles	✓		
Rep. Liz Smith	✓		
Rep. Bill Tash	✓		
Rep. Howard Toole	✓		
Rep. Tim Whalen	✓		
Rep. Karyl Winslow	✓		
Rep. Diana Wyatt	✓		

HR:1993

wp.rollcall.man

CS-09

HOUSE STANDING COMMITTEE REPORT

March 3, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that
Senate Bill 140 (third reading copy -- blue) be concurred in.

Signed: Russ Fagg
Russ Fagg, Chair

Carried by: Rep. Tash

hice

SENATE BILL NO. 140

INTRODUCED BY REA, HARP, PETERSON, YELLOWTAIL, PIPINICH,
KENNEDY, REHBEIN, WELDON, BURNETT, SWANSON, HALLIGAN,
SAYLES, BIANCHI, RYE, FISHER, B. BROWN, WEEDING, GRADY,
GROSFIELD, MESAROS, ECK, J. RICE, BECK, DEVLIN,
BRUSKI-MAUS, HOCKETT, M. HANSON

A BILL FOR AN ACT ENTITLED: "AN ACT ~~LIMITING-TORT-LIABILITY~~
~~FOR~~ DEFINING THE LEGAL RESPONSIBILITY OF PARTICIPANTS IN
EQUINE ACTIVITIES, EQUINE ACTIVITY SPONSORS, AND EQUINE
PROFESSIONALS; ~~REPEALING---SECTION---27-1-733,---MCA;~~ AND
PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY
DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Purpose. The purpose of
[sections 1 through 4 3] is to assist courts and juries in
defining the circumstances under which persons responsible
for equines may be found liable for damages to persons
harmd in the course of equine activities. It is the policy
of the state of Montana that a person is not liable for
damages sustained by another solely as a result of risks
inherent in equine activities if those risks are or should
be reasonably obvious, expected, or necessary to persons
engaged in equine activities. It is the policy of the state

of Montana that persons-who-are-responsible-for--equines--or
for--the--safety-of-persons-engaged-in-equine-activities-and
who-are-negligent-are-responsible-as-provided-in-(sections-1
through--4)--for--injuries--to--those--engaged---in---equine
activities AN EQUINE ACTIVITY SPONSOR OR EQUINE PROFESSIONAL
WHO IS NEGLIGENT AND CAUSES FORESEEABLE INJURY TO A
PARTICIPANT BEARS RESPONSIBILITY FOR THAT INJURY IN
ACCORDANCE WITH OTHER APPLICABLE LAW.

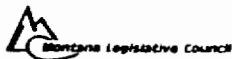
NEW SECTION. Section 2. Definitions. As used in
[sections 1 through 4 3], the following definitions apply:

(1) "Engage in an equine activity" means to ride,
train, drive, or be a passenger upon an equine, whether
mounted or unmounted, OR TO ASSIST A PARTICIPANT, EQUINE
ACTIVITY SPONSOR, OR EQUINE PROFESSIONAL. The phrase does
not mean activity by a spectator at an equine activity,
unless the spectator is IMPROPERLY in an unauthorized area
in immediate proximity to an equine activity, ~~or-by-a-person~~
~~who-participates-in-the-equine-activity-but-does-not-ride,~~
~~train, drive, or ride-as-a-passenger-upon-an-equine.~~

(2) "Equine" means a horse, pony, mule, donkey, or
hinny.

(3) "Equine activity" means:

(a) equine shows, fairs, competitions, performances, or
parades that involve any breed of equines and any of the
equine disciplines, including but not limited to dressage,



1 hunter and jumper horse shows, grand prix jumping, 3-day
2 events, combined training, rodeos, driving, pulling,
3 cutting, polo, steeplechasing, endurance trail riding and
4 western games, and hunting;

5 (b) equine training or teaching activities;

6 (c) boarding equines;

7 (d) riding, inspecting, grooming, or evaluating an
8 equine belonging to another, whether or not the owner has
9 received monetary consideration or another thing of value
10 for the use of the equine or permits a prospective purchaser
11 of the equine to ride, inspect, groom, or evaluate the
12 equine; and

13 (e) rides, trips, hunts, pack trips, or other equine
14 activities of any type, however informal, that are sponsored
15 by an equine activity sponsor; AND

16 (F) PROVIDING VETERINARIAN OR FARRIER SERVICES.

17 (4) "Equine activity sponsor" means an individual,
18 group, club, partnership, or corporation, OR OTHER ENTITY,
19 whether operating for profit or nonprofit, that sponsors,
20 organizes, or provides the facilities for an equine
21 activity. The phrase includes but is not limited to pony
22 clubs; 4-H clubs; hunt clubs; riding clubs; ~~school~~--and
23 ~~college-sponsored~~ RIDING classes and programs; therapeutic
24 riding programs; operators, instructors, and promoters of
25 equine facilities; stables; clubhouses; pony ride strings;

1 ~~fares~~; farms; ranches; and arenas.

2 (5) "Equine professional" means a person engaged for
3 compensation in:

4 (a) instructing a participant or renting to a
5 participant an equine for the purpose of riding, driving, or
6 being a passenger upon the equine;

7 (b) selling or renting equipment or tack to a
8 participant; or

9 (c) providing veterinary or farrier services.

10 (6) "Participant" means a person, whether amateur or
11 professional, who directly engages in an equine activity,
12 whether or not a fee is paid to participate in the equine
13 activity.

14 (7) "Risks inherent in equine activities" means dangers
15 or conditions that are an integral part of equine
16 activities, including but not limited to:

17 (a) the propensity of an equine to behave in ways that
18 may result in injury or harm to or the death of persons on
19 or around the equine;

20 (b) the unpredictability of an equine's reaction to
21 such things as MEDICATION; sounds; sudden movement; and
22 unfamiliar objects, persons, or other animals;

23 (c) hazards, such as surface and subsurface ground
24 conditions;

25 (d) collisions with other equines or objects; or

(e) the potential of a ANOTHER participant to act in a negligent manner that may contribute to injury to the participant or others, such as to not maintain control over the equine or to not act within the person's ability.

NEW SECTION. Section 3. Equine activity liability limitations. (1) Except as provided in subsections (2) and (3), an equine activity sponsor or an equine professional is not liable for an injury to or the death of a participant engaged in an equine activity RESULTING FROM RISKS INHERENT IN EQUINE ACTIVITIES.

~~{2}--Subsection {1} does not apply to the horseracing and mule racing industry as regulated in Title 23, chapter 4.~~

(2) AN EQUINE PARTICIPANT SHALL ACT IN A SAFE AND RESPONSIBLE MANNER AT ALL TIMES TO AVOID INJURY TO THE PARTICIPANT AND OTHERS AND TO BE AWARE OF RISKS INHERENT IN EQUINE ACTIVITIES.

(3) Subsection (1) does not apply:

(a) if the equine activity sponsor or the equine professional:

(i) provided the equipment or tack and the equipment or tack caused the injury because the equine activity sponsor or equine professional failed to reasonably and prudently inspect and OR maintain the equipment;

(ii) provided the equine and failed to make reasonable

and prudent efforts to determine the ability of the participant to safely engage in the equine activity and THE PARTICIPANT'S ABILITY to safely manage the particular equine based on the participant's representations as to the participant's ability;

(iii) owned, leased, rented, or otherwise was in lawful possession and control of the land or facilities upon which the participant sustained injuries caused by a dangerous latent condition that was known or should have been known to the equine activity sponsor or the equine professional;

(iv) committed an act or omission that constituted willful or wanton disregard for the safety of the participant and the act or omission caused the injury; or

(v) intentionally injured the participant; or

(b) in a products liability action.

NEW SECTION--Section 4--Veterinarian--and--farrier--liability--limitations--{1}--Except as provided in subsection {2}, a veterinarian or farrier is not liable for an injury to or the death of a person who assists the veterinarian or farrier in rendering veterinarian or farrier services, whether or not the services are for compensation, to an equine owned by that person.

~~{2}--Subsection {1} does not apply:~~

~~{a}--if the veterinarian or farrier:~~

~~{i}--committed an act or omission that constituted~~

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1 willful or wanton disregard for the safety of the person and
2 the act or omission caused the injury; or
3 (ii) intentionally injured the person; or
4 (b) in a products liability action;

5 NEW SECTION. ~~Section 5.~~ Repealer: ~~Section 27-1-733,~~
6 MCA, is repealed;

7 NEW SECTION. ~~Section 6.~~ Two-thirds vote requirement:
8 Because {sections 3 and 4} limit governmental liability,
9 Article II, section 18, of the Montana constitution requires
10 a vote of two-thirds of the members of each house of the
11 legislature for passage;

12 NEW SECTION. SECTION 4. MULE AND HORSERACING.
13 [SECTIONS 1 THROUGH 3] DO NOT APPLY TO THE HORSERACING AND
14 MULE RACING INDUSTRY AS REGULATED IN TITLE 23, CHAPTER 4.

15 NEW SECTION. Section 5. Applicability. [Sections 1
16 through 4] apply to injuries and deaths that occur on or
17 after [the effective date of this act].

18 NEW SECTION. Section 6. Effective date. [This act] is
19 effective on passage and approval.

-End-